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Date

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF-RESPONDENT,)
)
VS.)
)
JOE HUNT, AKA JOSEPH HUNT,)
AKA JOSEPH HENRY GAMSKY,)
)
DEFENDANT-APPELLANT.)

SUPERIOR COURT
NO. A-090435

OCT 9 1987

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP
STATE ATTORNEY GENERAL
3580 WILSHIRE BOULEVARD
ROOM 800
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 41 OF 101
S 6001 TO 6188, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

JOSEPH HUNT,)

DEFENDANT.)

NO. A-090435

REPORTERS' DAILY TRANSCRIPT

THURSDAY, JANUARY 29, 1987

VOLUME 41

PAGES 6001 TO 6188 INCL.

APPEARANCES:

FOR THE PLAINTIFF: IRA REINER, DISTRICT ATTORNEY
BY: FREDERICK N. WAPNER, DEPUTY
1725 MAIN STREET
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT: ARTHUR H. BARENS, ESQ.
10209 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.
10920 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

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1 SANTA MONICA, CALIFORNIA; THURSDAY, JANUARY 29, 1987; 10:40 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4
5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 IN CHAMBERS:)

7 THE COURT: ALL RIGHT, THE RECORD WILL INDICATE WE ARE
8 PRESENTLY IN CHAMBERS.

9 WHO REQUESTED IT?

10 MR. WAPNER: YOU WERE.

11 MR. BARENS: YOU ASKED US.

12 MR. WAPNER: YOUR HONOR, I THOUGHT THE COURT SAID
13 YESTERDAY --

14 THE COURT: YOU MEAN ON THE MATTER OF YOUR MOTION?

15 MR. BARENS: YES, YOUR HONOR.

16 THE COURT: WELL, MAYBE YOUR MEMORY IS FAILING YOU,
17 BUT AT THE TIME WE WERE DISCUSSING THE FACT THAT THE
18 DEFENDANT WAS NOT ABLE TO PAY YOU THE FEES THAT YOU ARE
19 ENTITLED TO AND YOU REQUESTED COMPENSATION AT THE RATE OF
20 \$75 AN HOUR, I TOLD YOU AT THAT TIME THAT YOUR --

21 MR. BARENS: ASSOCIATE.

22 THE COURT: -- ASSOCIATE HAD STATED IN PAPERS THAT YOU
23 WERE PARTNERS.

24 MR. BARENS: YES, SIR, AND I CORRECTED YOU ON THAT.

25 THE COURT: SAYING YOU WERE PARTNERS IN THIS MATTER.

26 AND YOU WERE PARTNERS PRIOR TO THE TIME THAT YOU
27 PRESENTED AN AFFIDAVIT -- PRIOR TO THE TIME THAT YOU SUBMITTED
28 A REQUEST FOR THE APPOINTMENT OF CO-COUNSEL TO JUDGE THOMAS

1 AND SUPPOSEDLY IT SHOULD HAVE BEEN DONE UNDER 987.D, BUT
2 YOU DID IT UNDER 987.9 BECAUSE OF THE FACT YOU WANTED TO HAVE
3 IT CONFIDENTIAL, SO TO SPEAK.

4 WELL, PROPERLY IT SHOULD HAVE BEEN UNDER 987.D.

5 BUT IN ANY EVENT, I TALKED TO JUDGE THOMAS AND
6 HE SAID CATEGORICALLY THAT HE WOULD NEVER HAVE APPOINTED YOUR
7 ASSOCIATE HERE, YOUR PARTNER AS CO-COUNSEL IN THE CASE AND
8 HAVE THE COUNTY PAY FOR IT HAD HE KNOWN THAT YOU WERE
9 PARTNERS.

10 MR. BARENS: YOUR HONOR, IF I MIGHT.

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1 MR. BARENS: YOUR HONOR, IF I MIGHT, YOU RECALL I
2 EXPLAINED CATEGORICALLY TO YOUR HONOR AND I WILL EXPLAIN
3 AGAIN --

4 THE COURT: THEN I TOLD YOU TOO, AT THAT TIME -- LET
5 ME FINISH. I TOLD YOU TOO AT THAT TIME, SINCE YOU NEEDED
6 YOU TOLD ME -- YOU NEEDED A LAWYER TO HELP YOU IN CONNECTION
7 WITH THE MOTIONS AND EVERYTHING ELSE IN THE PREPARATION, I
8 TOLD YOU THAT I WOULD PERMIT -- THAT THE STATE WOULD PAY,
9 THE COUNTY WOULD PAY FOR MR. CHIER ON THE CONDITION ONLY THAT
10 HE ASSIST YOU IN THE WAY THAT YOU WANTED TO HAVE HIM ASSIST
11 YOU, BUT NOT TO PARTICIPATE ACTIVELY IN THE TRIAL OF THE CASE.

12 YOU TOLD ME THAT THAT WOULD BE SO. NOW, DO YOU
13 WANT TO CHAGE THAT?

14 MR. BARENS: YES, YOUR HONOR. IF I MIGHT ADDRESS YOUR
15 HONOR'S FIRST REMARK, YOUR HONOR, I EXPLAINED TO YOU THEN
16 AND I WILL EXPLAIN TO YOU NOW, AT NO TIME HAVE MR. CHIER AND
17 I EVER BEEN PARTNERS.

18 AT NO TIME IN OUR CAREERS.

19 THE COURT: WELL, HE SAID SO IN HIS PAPERS. IN HIS
20 PAPERS, HE SWORE TO IT, THAT YOU WERE PARTNERS.

21 MR. CHIER: I DID?

22 THE COURT: YES, YOU DID.

23 MR. CHIER: WHERE DID I DO THAT?

24 THE COURT: DIDN'T I POINT IT OUT TO YOU?

25 MR. BARENS: I BELIEVE HE DID. I BELIEVE YOUR HONOR
26 HAD SOME DOCUMENT IN FRONT OF HIM AND --

27 THE COURT: THAT SAID HE WAS A PARTNER.

28 MR. BARENS: I CAN ONLY SAY TO YOUR HONOR THAT --

1 THE COURT: LET ME FINISH ONE OTHER THING. GO AHEAD.
2 YOU FINISH UP.

3 MR. BARENS: THANK YOU, YOUR HONOR. YOUR HONOR, AT
4 NO TIME HAVE MR. CHIER AND I EVER BEEN PARTNERS. AT NO TIME
5 HAVE MR. CHIER AND I EVER OFFICED TOGETHER. AT ALL TIMES
6 DURING OUR CAREERS --

7 THE COURT: BEFORE HE WAS APPOINTED, WEREN'T YOU
8 TOGETHER IN THE CASE AS COUNSEL IN THE CASE?

9 MR. BARENS: ABSOLUTELY.

10 THE COURT: YOU WERE PAID BY THE DEFENDANT, BOTH OF
11 YOU?

12 MR. BARENS: NO, YOUR HONOR.

13 THE COURT: YOU MEAN HE WAS WORKING FOR NOTHING?

14 MR. BARENS: NO, YOUR HONOR.

15 THE COURT: HOW WAS HE BEING COMPENSATED?

16 MR. BARENS: HE WAS COMPENSATED FROM THE COMPENSATION
17 I RECEIVED. I DETERMINED A FEE ARRANGEMENT WITH MR. CHIER
18 WHEREIN I PAID HIM CERTAIN SUMS OF MONEY.

19 THE COURT: WELL THEN, HE WAS PAID.

20 MR. BARENS: BY MY OFFICE.

21 THE COURT: HE WAS PAID BY YOU. HE CHARACTERIZED YOUR
22 RELATIONSHIP AS BEING PARTNERS.

23 MR. BARENS: IT IS A MISCHARACTERIZATION AND --

24 THE COURT: WELL IN ANY EVENT, I TOOK YOU AT YOUR WORD.
25 AT THE TIME, I TOLD YOU THEN CATEGORICALLY -- INCIDENTALLY,
26 I TOLD YOU THAT JUDGE THOMAS NEVER -- HE TOLD ME THAT HE NEVER
27 WOULD HAVE APPOINTED HIM, HAD HE KNOWN THAT HE WAS IN THE
28 CASE AND HAD BEEN PARTICIPATING IN YOUR FEES.

1 MR. BARENS: IF I MIGHT SAY --

2 THE COURT: I AM TELLING YOU THIS NOW. I THINK THAT
3 YOU ARE FULLY CAPABLE OF HANDLING THE CASE YOURSELF. IF YOU
4 WANT ANY ASSISTANCE FROM HIM, HE CAN GIVE YOU WHATEVER
5 ASSISTANCE YOU WANT HIM TO GIVE YOU.

6 YOU WILL NOT HAVE HIM AS AN ATTORNEY IN THIS
7 CASE, QUESTIONING ANY WITNESS.

8 MR. BARENS: MIGHT I BE HEARD ON THAT?

9 THE COURT: GO AHEAD.

10 MR. BARENS: I HAVE TO BE, YOUR HONOR. YOUR HONOR,
11 IF I MIGHT EXPLAIN THAT SINCE THIS MATTER HAS BEEN IN THE
12 SUPERIOR COURT AND BEFORE WE CAME TO THE SUPERIOR COURT, I
13 MADE IT CLEAR TO THE CLIENT THAT IN NO WAY, WAS I WILLING
14 TO UNDERTAKE THE REPRESENTING OF MR. HUNT UNLESS I HAD
15 ASSOCIATE COUNSEL OF A CO-COUNSEL STATUS.

16 I EXPLAINED TO HIM THAT BASED ON THE COMPLEXITY
17 OF THE CASE AND THE NUMBER OF ISSUES, THE NUMBER OF WITNESSES
18 AND THE TREMENDOUS VOLUME OF DOCUMENTARY EVIDENCE, THAT I
19 WAS NOT ABLE OR PREPARED TO PREPARE THE CASE FOR TRIAL AND
20 EXECUTE THE TRIAL ON MY OWN.

21 AT THAT TIME, MR. CHIER WAS ACTIVELY INVOLVED
22 WITH ME AND I REPRESENTED TO THE COURT THAT DURING THAT PERIOD
23 OF TIME, MR. CHIER HAD HAD THE MAJORITY OF DIRECT CONTACT
24 WITH MR. HUNT IN TERMS OF PREPARING MR. HUNT TO TESTIFY FOR
25 PURPOSES OF THE TRIAL.

26 OBVIOUSLY, I WILL REPRESENT TO THE COURT THAT
27 THE DEFENDANT IS GOING TO TESTIFY. I DON'T FEEL THAT I AM
28 LETTING SOME CAT OUT OF THE BAG BY SAYING IT OR THAT IT IS

1 SOME SURPRISE.

2 MR. WAPNER: MAY I INTERRUPT YOU, MR. BARENS? I HAVE
3 A PHONE CALL FROM AGENT TULLENERS. MR. CHIER HAD ASKED ME
4 TO GET HIM HERE. MAY I JUST TAKE IT? I APOLOGIZE.

5 THE COURT: SURE.

6 (PAUSE.)

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1 (PAUSE IN PROCEEDINGS.)

2 (MR. WAPNER ENTERS CHAMBERS.)

3 MR. WAPNER: THANK YOU. I APOLOGIZE.

4 MAY I HAVE JUST A MOMENT?

5 (UNREPORTED COLLOQUY BETWEEN ALL

6 COUNSEL.)

7 MR. BARENS: ALL OF MY STUFF, IN MY OPINION, IS BRIEF
8 TODAY.

9 THE COURT: ANYTHING FURTHER?

10 MR. BARENS: I WAS JUST STARTING MY REMARKS, YOUR HONOR.

11 YOUR HONOR, AS I WAS EXPLAINING, I BELIEVE, BEFORE
12 THE BREAK, MR. CHIER HAS HAD THE MAJORITY OF THE CONTACT WITH
13 THE CLIENT IN PREPARATION WITH THE CLIENT FOR TRIAL IN TERMS
14 OF THE CLIENT'S TESTIMONY AND ORIENTATION AS TO OTHER
15 WITNESSES.

16 AS YOUR HONOR IS PROBABLY AWARE --

17 THE COURT: WILL YOU ADDRESS THE POINT THAT I MADE,
18 THAT YOU AND I HAD DISCUSSED THE QUESTION OF YOUR COMPENSATION
19 AND THE COMPENSATION OF MR. CHIER.

20 MR. BARENS: YES, YOUR HONOR.

21 THE COURT: ALL RIGHT. IN WHICH I TOLD YOU CATEGORICALLY
22 THEN THAT I WOULD APPROVE OF NOTHING. YOU WERE INSISTING
23 UPON HAVING HIM WITH YOU AND I SAID FOR THE PURPOSE OF
24 ASSISTING YOU IN THE MATTER, I WOULD PAY YOU \$75 AN HOUR AND
25 PAY HIM \$35 AN HOUR, PROVIDED HE HAD NOTHING TO DO ACTIVELY
26 IN THE TRIAL OF THE CASE.

27 MR. BARENS: YES, YOU DID TELL ME.

28 THE COURT: NOW WHY DO YOU WANT TO CHANGE IT?

1 MR. BARENS: YES, YOUR HONOR.

2 THE COURT: WHY?

3 MR. BARENS: I HAVE HAD MULTIPLE DISCUSSIONS WITH
4 MR. CHIER.

5 THE COURT: THEN I WILL ANNUL THE ORDER, IF I MAY.

6 MR. BARENS: I UNDERSTAND THAT IS A RISK I AM TO TAKE.

7 THE COURT: ALL RIGHT.

8 MR. BARENS: AND YOUR HONOR HAS TO PROCEED AS YOUR HONOR
9 DEEMS FIT AND I HAVE TO PROCEED AS I FEEL OBLIGATED UNDER
10 THE CIRCUMSTANCES.

11 THE COURT: NOW I AM ORDERING YOU TO PROCEED WITH THE
12 CASE AS IT IS GOING. HE CAN ASSIST YOU IN ANY WAY THAT HE
13 WANTS BUT HE IS NOT TO PARTICIPATE IN THE EXAMINATION OF ANY
14 WITNESSES, AND SO FORTH.

15 AND I WILL TELL YOU FOR THE SAKE OF THE DEFENDANT,
16 BECAUSE HE HAD AN ABRASIVE ATTITUDE TOWARDS THE JURORS ON
17 THE HOVEY HEARING, IT IS NOT FOR THE BEST INTERESTS OF YOUR
18 CLIENT TO HAVE HIM UP HERE ACTIVELY IN THE CASE AND I AM
19 DUTY-BOUND TO TELL YOU THAT.

20 I KNOW THAT HE HAS -- HE HAS AN UNFAVORABLE AND
21 DISASTEROUS REACTION WITH THE PROSPECTIVE JURORS WHOM HE HAD
22 QUESTIONED.

23 MR. CHIER: WHAT IS THE BASIS FOR THAT, YOUR HONOR?

24 THE COURT: I AM NOT TALKING TO YOU.

25 MR. CHIER: YOUR HONOR, I --

26 MR. BARENS: YOUR HONOR -- PLEASE, GENTLEMEN --

27 YOUR HONOR, IF I MIGHT CONTINUE.

28 MY CONCERNS ARE THE DEFENDANT'S RIGHT TO

1 COMPETENT COUNSEL AND THE WAY THE CASES HAVE VIEWED THE
2 DEFINITION OF COMPETENT COUNSEL AND THE STATUTORY ENTITLEMENT
3 THAT HE HAS UNDER THE CIRCUMSTANCES, AND I AM TRYING TO BE
4 SENSITIVE TO THAT AND I WOULD LIKE TO DISCUSS THAT FOR A
5 MOMENT WITH YOUR HONOR.

6 THE COURT: WE HAVE DISCUSSED IT IN THE PAST.

7 MR. BARENS: I KNOW BUT --

8 THE COURT: YOU TOLD ME AT THAT TIME, THE FACT YOU NEEDED
9 HIM IN THE CASE AND I TOLD YOU IN WHAT RESPECTS IT WOULD BE
10 AGREEABLE TO HAVE HIM PAID FOR IT BY THE COURT AND AS HE HAD
11 BEEN ASSISTING YOU ALL THROUGHOUT.

12 I DON'T THINK YOU NEED TO BE BURDENED BY HIS
13 ASSISTANCE THE WAY YOU WANT TO BE.

14 MR. BARENS: YOUR HONOR, I FEEL I WANT TO HAVE
15 DISCUSSION WITH YOUR HONOR AND I FEEL I AM REQUIRED TO DISCUSS
16 IT WITH YOUR HONOR ON THE RECORD AS TO MY POINT OF VIEW.

17 AS I AM AWARE, THE DEFINITION OF THE RIGHT TO
18 COUNSEL ON ALL OF THE CASES I HAVE READ, I HAVE NEVER FOUND
19 A PRECEDENT, YOUR HONOR, WHERE COUNSEL WAS PRECLUDED FROM
20 PARTICIPATING WITH CO-COUNSEL.

21 I CITE TO YOUR HONOR AN EXAMPLE IN THIS THAT IS
22 SIMILAR OF PEOPLE V. MARVIN PANCOAST, WHICH WAS TRIED IN THE
23 VAN NUYS COURT.

24 THE COURT: LET'S CUT IT SHORT. YOU WANT HIM AS YOUR
25 CO-COUNSEL IN THE CASE AND WE ARE NOT GOING TO PAY HIM, THAT
26 IS PERFECTLY AGREEABLE TO ME.

27 MR. CHIER: I AM NOT GOING TO BE PAID?

28 THE COURT: YOU CAME INTO THE CASE AND YOU HAD RECEIVED --

1 YOU TOLD ME YOU HAD AGREED TO RECEIVE \$50,000 AND YOU TOLD
2 ME THAT YOU GOT PAID \$35,000.

3 MR. BARENS: THAT IS CORRECT, YOUR HONOR.

4 THE COURT: THEN YOU TOLD ME THAT, OF COURSE, HE IS
5 NOW INDIGENT, HE HASN'T GOT ANY MONEY.

6 MR. BARENS: QUITE SO.

7 THE COURT: AND THE DISTRICT ATTORNEY DOWNTOWN TALKED ABOUT
8 IT IN JUDGE MUNOZ' COURT, AND WHICH COURT SAID "IT IS JUST TOO BAD, YOU ARE
9 SUPPOSED TO CONTINUE WITH THE CASE EVEN IF YOU DON'T GET PAID, THAT
10 IT IS YOUR OBLIGATION AS YOU HAVE BEEN IN THE CASE.

11 AND I SAID NO, I WOULD GIVE YOU --

12 MR. BARENS: YOU WERE QUITE GENEROUS.

13 THE COURT: -- \$75 AN HOUR AND IF YOU WANT HIM TO ASSIST
14 YOU, I WOULD PAY HIM \$35 AN HOUR, BUT HE IS NOT TO ENGAGE
15 ACTIVELY. AND BY THAT, I MEAN QUESTIONING OF WITNESSES,
16 APPEARING IN THE CASE AS SUCH. HE CAN DO ALL OF YOUR LEG
17 WORK, ALL OF YOUR ERRANDS. HE CAN DO ANYTHING THAT YOU WANT
18 HIM TO DO AND WE WILL PAY FOR IT BUT I DON'T WANT HIM
19 ACTIVELY IN THE CASE. I DON'T THINK HE IS NEEDED.

20 YOU ARE EXTREMELY COMPETENT AND YOU HAVE BEEN
21 DOING IT.

22 MR. BARENS: YES, YOUR HONOR.

23 THE COURT: YOU DON'T NEED HIM.
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1 MR. CHIER: ARE YOU SAYING THAT I CAN'T SPEAK DURING
2 THE TRIAL?

3 THE COURT: YOU CAN'T SPEAK. YOU CAN SPEAK TO HIM.
4 BUT YOU CAN'T SPEAK TO THE COURT.

5 MR. CHIER: YOU WON'T LET ME SPEAK TO HIM. YOU TOLD
6 ME TO SHUT UP.

7 THE COURT: NO, WHEN I AM TALKING TO HIM.

8 MR. BARENS: GENTLEMEN, PLEASE. I QUITE WELL UNDERSTAND
9 THAT YOUR HONOR --

10 THE COURT: WHAT DO YOU WANT TO DO? DO YOU WANT TO
11 CHANGE THE ARRANGEMENTS? I WILL CHANGE THE ORDER THAT I MADE
12 ON YOU AT \$75 AN HOUR. ALL RIGHT?

13 MR. BARENS: YOUR HONOR --

14 MR. CHIER: YOU ARE ANNULING MY ORDER?

15 THE COURT: YES, YOUR ORDER, TOO.

16 MR. CHIER: YOU DIDN'T EVEN MAKE IT.

17 THE COURT: YOUR ORDER TOO, BECAUSE JUDGE THOMAS SAID
18 THAT HE WAS IMPOSED UPON.

19 HE SAID HE WAS DECEIVED INTO THINKING THAT YOU
20 WERE INDEPENDENT COUNSEL.

21 MR. CHIER: WOULD YOU MIND TELLING ME WHAT MISREPRESENT-
22 ATIONS YOU CONTEND THAT I MADE?

23 THE COURT: NOT DISCLOSING TO JUDGE THOMAS THAT YOU
24 WERE A PARTNER AND THAT YOU WERE RECEIVING FEES FROM THE
25 DEFENDANT.

26 MR. CHIER: I AM NOT A PARTNER. I MADE A FULL
27 DISCLOSURE OF THE --

28 THE COURT: NO YOU DIDN'T. I TOLD YOU THAT I AM NOW

2

1 LOOKING FOR THE AFFIDAVIT AND --

2 MR. CHIER: MY AFFIDAVIT IS CONFIDENTIAL, YOUR HONOR.

3 THE COURT: NO. IT WAS A MATTER OF RECORD.

4 MR. CHIER: IT WAS FILED ON A CONFIDENTIAL --

5 THE COURT: IT WAS ANOTHER ONE OF YOUR MISSTATEMENTS.

6 YOU MAKE MANY OF THEM.

7 LET ME SHOW YOU WHERE IT WAS. IT IS NOT

8 CONFIDENTIAL.

9 I WILL READ IT TO YOU ON THE RECORD. DO YOU
10 REMEMBER THAT I READ IT TO YOU?

11 MR. BARENS: I BELIEVE YOUR HONOR REFERENCED IT. I
12 DON'T SPECIFICALLY RECALL YOUR HONOR READING IT.

13 I BELIEVE YOUR HONOR POINTED TO A DOCUMENT AND
14 MADE REFERENCE TO IT, YOUR HONOR. I DO RECALL THE REFERENCE
15 THAT YOUR HONOR IS SAYING TODAY THOUGH, IS WHAT YOUR HONOR
16 SAID TO ME ON THAT OCCASION.

17 THE COURT: ALL RIGHT.

18 MR. BARENS: HOWEVER YOUR HONOR, I AM SAYING FOR THE
19 RECORD, AT NO TIME HAS MR. CHIER BEEN A PARTNER OF MINE, AT
20 NO TIME, IN ANY RESPECT.

21 THE COURT: I DON'T KNOW WHAT YOU CALL IT. YOU WERE
22 ASSOCIATED TOGETHER ON THIS. YOU WERE SPLITTING FEES WITH
23 HIM, WEREN'T YOU? WEREN'T YOU PAYING HIM FEES?

24 MR. BARENS: YES.

25 THE COURT: AND SO FORTH IN THIS PARTICULAR MATTER.
26 THEN HE WAS A PARTNER OF YOURS IN THIS CASE. HE SAID TO --

27 MR. BARENS: IN THIS CASE?

28 THE COURT: YES. I AM TALKING ABOUT THIS CASE.

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1 MR. BARENS: WHEN YOU USED THE WORD "PARTNER" I ABSOLUTELY
2 INTERPRETED THAT AS BEING MY LAW PARTNER IN MY FIRM.

3 THE COURT: NO. HE WAS A PARTNER OF YOURS IN THE CASE
4 AND SHARING FEES THAT YOU WERE RECEIVING.

5 MR. BARENS: ABSOLUTELY. THERE IS NO QUESTION ABOUT
6 THAT.

7 THE COURT: THAT WAS NEVER DISCLOSED TO JUDGE THOMAS.

8 MR. CHIER: IT WAS, TOO.

9 THE COURT: JUDGE THOMAS TOLD ME CATEGORICALLY THAT
10 HE NEVER WOULD HAVE APPOINTED YOU, HAD HE KNOWN ANYTHING
11 LIKE THAT AT ALL.

12 AS A MATTER OF FACT, HE DOESN'T LIKE YOU.

13 MR. BARENS: WELL YOUR HONOR, IRRESPECTIVE OF THAT,
14 YOUR HONOR, WE ARE I SUBMIT RESPECTFULLY, MOST HUMBLY YOUR
15 HONOR, THIS CASE TRASCENDS THE IMPORTANCE -- THE IMPORTANCE
16 OF ADEQUATE REPRESENTATION OF COUNSEL FOR A DEFENDANT IN A
17 CAPITAL CASE TRASCENDS ANY PERSONAL FEELINGS THAT WE MAY
18 HAVE.

19 THIS IS NOT A CONTEST BETWEEN COUNSEL AND THE
20 COURT BUT RATHER, AN EFFORT TO INSURE THAT MR. HUNT HAS A
21 FAIR TRIAL AND --

22 THE COURT: HE IS GOING TO HAVE A FAIR TRIAL. THAT
23 DOESN'T MEAN THAT HE CAN QUESTION WITNESSES. YOU ARE EXTREMELY
24 COMPETENT AT DOING IT, MUCH BETTER THAN HE CAN AND DOES.

25 MR. BARENS: YOUR HONOR, THE DEFENDANT HAS APPROACHED
26 ME ON AN URGENT BASIS, TELLING ME THAT HE FEELS HE HAD ALWAYS
27 UNDERSTOOD DURING THE PREPARATION OF THIS TRIAL, THAT THERE
28 HAD BEEN A DIVISION OF LABOR BETWEEN MR. CHIER AND MYSELF,

1 VIS-A-VIS SPECIFIC WITNESSES WHICH IS IN FACT, TRUE.

2 BUT THERE WAS FROM THE VERY START, AREAS THAT
3 MR. CHIER ARGUED TO THIS COURT DURING THE BAIL MOTION AND
4 ALL PRETRIAL PROCEEDINGS. AND I REPRESENT TO YOUR HONOR,
5 THAT IN THE SAN FRANCISCO CASE, MR. CHIER HANDLED SOME OF
6 THE WITNESSES AND I HANDLED SOME OF THE WITNESSES AS WE PREPARED
7 ON THAT BASIS.

8 WE PREPARED ON THE SAME BASIS FOR THIS COURT.
9 THERE WERE CERTAIN WITNESSES THAT MR. CHIER HAD CONTACT WITH
10 AND DOCUMENTS THAT HE WAS FAMILIAR WITH AND WOULD DO THE WORK-
11 LOAD ON AND WE DIVIDED THE RESPONSIBILITIES.

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1 I DON'T SEE AT THIS PARTICULAR TIME HOW, ON THE
2 EVE OF TRIAL, WE CAN BE PRECLUDED FROM PROCEEDING ON THE BASIS
3 ON WHICH WE PREPARED.

4 YOUR HONOR, I WOULD ALSO LIKE TO SAY FOR THE
5 RECORD THAT IF THERE HAD BEEN ANY INSTANCES IN WHICH MR. CHIER
6 HAS OFFENDED THE COURT, HE IS FULLY PREPARED TO APOLOGIZE
7 FOR SAME.

8 HE DOES NOT SEEK ANY CONFRONTATION WITH YOUR
9 HONOR. WE WOULD LIKE YOUR HONOR TO JUST AT THE TRIAL --

10 THE COURT: DO YOU WANT TO PROCEED ON THIS CASE WITHOUT
11 COMPENSATION FROM THE COUNTY?

12 MR. BARENS: I DON'T WANT TO PROCEED WITHOUT COMPENSATION
13 IF IT IS A PENALTY THAT --

14 THE COURT: WOULD YOU --

15 MR. BARENS: I AM SURE MR. CHIER DOESN'T WANT TO PROCEED
16 WITHOUT COMPENSATION. YOUR HONOR, IF YOU ARE SAYING TO ME
17 THAT IF I FEEL INSURING HUNT'S FAIR TRIAL REQUIRES CHIER'S
18 PARTICIPATION IN THE TRIAL THAT --

19 THE COURT: I WANT TO KNOW WHY IN THE MIDDLE OF THINGS,
20 YOU WANT TO CHANGE IT. DIDN'T WE AGREE CATEGORICALLY AND
21 DIDN'T YOU AGREE CATEGORICALLY, THAT IF YOU WERE PAID \$75
22 AN HOUR AND HE WAS PAID \$35 TO ASSIST YOU, THAT HE WOULD
23 REFRAIN FROM ACTIVELY EXAMINING ANY WITNESSES OR HAVING ANY
24 PARTICIPATION IN THE CASE?

25 MR. BARENS: I BELIEVE WE HAD THAT UNDERSTANDING.

26 THE COURT: ISN'T THAT THE UNDERSTANDING?

27 MR. BARENS: YOUR HONOR, SUBSEQUENT TO THAT --

28 THE COURT: AT THAT TIME, YOU KNEW ABOUT THE

1 RESPONSIBILITY THAT YOU HAD AS A LAWYER AND HOW BEST TO PREPARE
2 THIS CASE.

3 MR. BARENS: YOUR HONOR, IF I MIGHT RESPOND, DURING
4 DISCUSSION WITH MR. HUNT SUBSEQUENT TO THAT UNDERSTANDING,
5 MR. HUNT CANNOT RECONCILE WITH THAT UNDERSTANDING AND FEELS
6 HE HAS BEEN ASSURED THE RIGHT TO ADEQUATE COUNSEL AND
7 COMPREHENSIVE COUNSEL STATUTORIALLY PROVIDED FOR HIM. AND
8 I WOULD CONCUR WITH HIS JUDGMENT THAT IF HE IS UNCOMFORTABLE
9 OR HAS MISGIVINGS THAT HE IS NOT BEING REPRESENTED ON THE
10 BASIS FOR WHICH THE MATTER WAS PREPARED FOR TRIAL, THAT I
11 AM OBLIGED TO MAKE THAT KNOWN TO THE COURT, WHICH I AM DOING.

12 AND CONFIRMING THAT HIS UNDERSTANDING WAS AS WE PREPARED
13 FOR TRIAL, THAT HE WOULD HAVE TWO LAWYERS PARTICIPATING IN
14 HIS DEFENSE. HE WORKED VERY CLOSELY IN FACT, I REPRESENT
15 TO THE COURT, ON AN AVERAGE OF SIX DAYS A WEEK. HE HAS WORKED
16 PERSONALLY WITH MR. CHIER IN THE PREPARATION OF HIS DEFENSE.

17 THE COURT: I AM NOT PREVENTING HIM FROM WORKING,
18 ASSISTING YOU PREPARING ANYTHING THAT HAS TO BE PREPARED.
19 I AM NOT PRECLUDING YOU FROM DOING THAT. THAT WAS OUR UNDER-
20 STANDING.

21 MR. BARENS: COULD I ASK YOUR HONOR, WHAT HARM WOULD
22 COME TO THE PROCEEDINGS OR WHY MR. CHIER COULDN'T PARTICIPATE?

23 THE COURT: I DON'T WANT HIM TO PARTICIPATE. I THINK
24 THAT IT WOULD BE A DISSERVICE IN THIS PARTICULAR CASE.

25 HE WOULD ANTAGONIZE AND ALIENATE THE JURORS,
26 AS HE HAD DONE IN THE HOVEY HEARINGS.

27 I THINK FOR THE BEST INTEREST OF THE DEFENDANT,
28 YOU ARE EXTREMELY COMPETENT TO HANDLE IT YOURSELF, WITH HIS

1 ASSISTANCE, WITHOUT HIS HAVING TO CROSS-EXAMINE ANY WITNESSES.

2 MR. BARENS: YOUR HONOR, LET ME ON ANOTHER ISSUE ASIDE
3 FROM THE CROSS-EXAMINING OF WITNESSES, YOUR HONOR, I AM SURE
4 YOU ARE AWARE THAT I HAVE ADVISED YOUR HONOR THAT MR. CHIER
5 HAS DONE ALL OF THE LEGAL RESEARCH AND PREPARATION OF MOTIONS
6 IN THIS MATTER.

7 I HAVE CATEGORICALLY REPRESENTED THAT TO YOU,
8 YOUR HONOR.

9 THE COURT: JUST LIKE THE APPOINTMENT OF THIS SPECIAL
10 MASTER? THAT IS TYPICAL OF THE WORK THAT HE HAS BEEN DOING
11 FOR YOU, ISN'T IT?

12 MR. BARENS: NO, IT WAS NOT. IT WAS A SEAT-OF-THE-PANTS
13 DECISION WE HAD MADE UNDER EXTREME CIRCUMSTANCES.

14 MR. CHIER HAD NO OPPORTUNITY TO RESEARCH THE
15 SECTION. AND I BELIEVE HE TOLD YOUR HONOR THAT HE HAD NOT
16 READ THE SECTION. YOUR HONOR, HE WAS CALLING ME FROM A
17 CAR TELEPHONE --

18 THE COURT: BUT AFTER I POINTED IT OUT TO HIS ATTENTION --

19 MR. BARENS: HE WAS CALLING ME FROM A TELEPHONE IN
20 A CAR ON AN EMERGENCY BASIS. I HAD NOT READ THE SECTION.

21 MR. WAPNER HAD NOT READ THE SECTION. I DON'T
22 FEEL THAT WE SHOULD CHASTISE MR. CHIER OVER SOMETHING THAT
23 WAS JUST SITUATIONAL.

24 THE COURT: WELL, I AM TELLING YOU NOW TO WHAT EXTENT
25 I WILL PERMIT HIM TO PARTICIPATE.

26 MR. BARENS: COULD I FINISH?

27 THE COURT: IT WILL BE IN ACCORDANCE WITH THE AGREEMENT
28 THAT WE HAD. ON THE BASIS OF THAT, I SIGNED THE ORDER. NOW

1 YOU WANT TO BACK OUT ON THAT.

2 NOW, YOU CAN GO AHEAD AND TRY THIS CASE WITHOUT
3 ANY COMPENSATION FROM THE COUNTY OR FROM THE STATE OR FROM
4 ANYBODY ELSE.

5 MR. BARENS: MIGHT I SAY --

6 MR. CHIER: COULD I ASK A QUESTION, YOUR HONOR?

7 THE COURT: NO.

8 MR. BARENS: COULD HE ASK ME THE QUESTION TO ASK YOU?

9 THE COURT: HE CAN WHISPER IT TO YOU, THE WAY HE HAS
10 BEEN DOING THROUGHOUT.

11 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

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1 THE COURT: WHEN HE SOUGHT OUT THIS WRIT, HE SAID THAT
2 HE COULDN'T PROPERLY, EFFECTIVELY REPRESENT HIS CLIENT AS
3 LONG AS I AM THE JUDGE IN THIS CASE.

4 IF HE CAN'T DO THAT, HE DOESN'T HAVE TO PARTICIPATE
5 AT ALL.

6 MR. BARENS: IF I COULD JUST FINISH THE REMARKS I WAS
7 MAKING, BECAUSE I HAVE ANOTHER QUESTION FOR YOUR HONOR.

8 YOUR HONOR, I WAS COMMENTING THAT MR. CHIER HAD
9 PREPARED THE MOTIONS AND DONE THE LEGAL RESEARCH. WOULD YOUR
10 HONOR PERMIT MR. CHIER TO ARGUE LEGAL MATTERS ON THE RESEARCH
11 AND THE MOTION WORK THAT HE HAS PREPARED?

12 LET ME GIVE YOU AN EXAMPLE. MANY TIMES DURING
13 THE BAIL HEARING, MR. CHIER ARGUED TO YOUR HONOR, ELEMENTS
14 OF THE BAIL LAW AND LEGAL MATERIALS OF THAT NATURE.

15 AND THERE COULD BE DURING THIS TRIAL --

16 THE COURT: HE CAN ARGUE MOTIONS TO ME. THAT IS, OUT-
17 SIDE THE PRESENCE OF THE JURY. I WILL GO THAT FAR.

18 MR. BARENS: ALL RIGHT. NOW YOUR HONOR, LET ME MAKE
19 SURE I UNDERSTAND WHERE WE ARE AT NOW.

20 THE COURT: YOU TOLD ME THAT HE HAD PREPARED VARIOUS
21 KINDS OF MOTIONS AND SO FORTH, THAT HE IS MUCH BETTER
22 PREPARED TO ARGUE THAN YOU ARE.

23 MR. BARENS: ALL RIGHT.

24 THE COURT: ALL RIGHT. I WILL GO THAT FAR. I WILL
25 PERMIT HIM TO ARGUE THOSE MOTIONS.

26 MR. BARENS: I AM NOT TRYING TO BE CONFRONTATIONAL
27 IN ANY WAY AND --

28 THE COURT: I WILL PERMIT HIM TO DO THAT.

1 MR. BARENS: YOUR HONOR, SO, ON THE BASIS THAT HE NOT
2 CROSS-EXAMINE WITNESSES, WE RETAIN OUR APPOINTMENTS?

3 THE COURT: WELL, IF YOU ASSURE ME THAT -- WELL, I
4 WILL HEAR FROM THE DISTRICT ATTORNEY HERE.

5 MR. WAPNER: WELL, I AM GRAVELY CONCERNED WITH THE
6 COURSE THAT THE COURT IS TAKING.

7 FIRST OF ALL, I DON'T THINK MONEY HAS ANYTHING
8 TO DO WITH THIS, ONE WAY OR THE OTHER. WHETHER THEY ARE
9 COMPENSATED OR NOT IS A COMPLETELY SEPARATE ISSUE AS FAR AS
10 I AM CONCERNED. I MADE MY FEELINGS KNOWN TO THE COURT ABOUT
11 THE COMPENSATION, EVEN THOUGH IT IS NOT REALLY MY PLACE.
12 WHETHER THEY GET PAID OR NOT IS NOT FOR ME TO DETERMINE.

13 BUT WHETHER THERE IS COMPENSATION OR NOT, IS
14 IRRELEVANT TO THE ISSUE OF WHETHER THE DEFENDANT IS DEPRIVED
15 OF HIS RIGHT TO COUNSEL. I THINK IF THE COURT TAKES THIS
16 STAND THAT IT IS TAKING, THAT WE COULD END UP DOING A FOUR
17 OR FIVE OR SIX-MONTH TRIAL AS A NULLITY BECAUSE THE APPELLATE
18 COURT AND THE SUPREME COURT WILL SAY THAT HE DID NOT GET HIS
19 EFFECTIVE REPRESENTATION OF COUNSEL. AND FRANKLY, I DON'T
20 WANT TO PROCEED IF --

21 THE COURT: I WILL PROCEED THE WAY I HAVE INDICATED
22 ALREADY. I WILL TAKE MY CHANCES.

23 MR. WAPNER: WELL, THE OTHER THING I WANTED TO SAY
24 IS THAT --

25 THE COURT: I KNOW THAT YOU HAVE AN OBSESSION ABOUT
26 ANY KIND OF ERROR. AND YOU HAVE BEEN LEANING OVER BACKWARDS
27 AND BACKWARDS. YOU HAVE NEVER TAKEN ANY POSITION WHICH WAS
28 A FIRM ONE. I WILL TELL YOU THAT, QUITE FRANKLY.

1 MR. WAPNER: I AM TAKING A VERY FIRM POSITION RIGHT
2 NOW.

3 THE COURT: THAT IS ONE POINT THAT I DON'T AGREE WITH
4 YOU ON.

5 MR. WAPNER: AND I THINK THAT WHAT IS IN THE BEST
6 INTEREST OF THE DEFENDANT, IS NOT FOR THE COURT TO DETERMINE
7 BUT IS FOR --

8 THE COURT: I AM RUNNING THIS TRIAL, NOT YOU NOR THEY.
9 I THINK I UNDERSTAND THE CIRCUMSTANCES.

10 HE IS EXTREMELY WELL REPRESENTED BY MR. BARENS.
11 HE CAN HANDLE THE MATTER.

12 IF THERE ARE ANY PARTICULAR MATTERS, I HAVE JUST
13 MADE A RULING. IF THERE ARE ANY PARTICULAR MATTERS OF LAW
14 WHICH HE HAS DONE RESEARCH UPON AND BY "HE" I MEAN MR. CHIER
15 DONE RESEARCH, I WILL LISTEN TO ARGUMENT OF HIM.

16 THAT IS THE EXTENT OF WHAT I AM GOING TO PERMIT
17 HIM TO DO. THAT ONLY PRESUMES THAT HE NEEDS SECOND COUNSEL.

18 THAT PRESUMPTION IS OVERWHELMINGLY MET IN THIS
19 PARTICULAR CASE BY THE EXPERIENCE AND CAPABILITY OF MR. BARENS
20 TO HANDLE THIS CASE.

21 CERTAINLY, HE HAS THE ACTUAL TRIAL --

22 MR. WAPNER: WELL, YOU ARE TALKING PRESUMPTIONS. THERE
23 IS ONE THING HAVING TO DO WITH --

24 THE COURT: WELL, THE PRESUMPTION OF NEED FOR A SECOND
25 COUNSEL. THERE IS A PRESUMPTION. THE CASES HAVE SAID THAT
26 THERE IS A PRESUMPTION THAT IN A SERIOUS, DEATH PENALTY CASE,
27 THAT A SECOND COUNSEL MIGHT BE REQUIRED.

28 THAT PRESUMPTION COULD BE OVERCOME. IT HAS BEEN

1 OVERWHELMINGLY OVERCOME IN THIS PARTICULAR CASE.

2 I AM INDICATING THE EXTENT TO WHICH SECOND COUNSEL
3 CAN PARTICIPATE IN THE CASE.

4 MR. WAPNER: WELL, WILL THE COURT SET OUT FOR THE RECORD
5 THE REASONS WHY --

6 THE COURT: I DON'T HAVE TO SET OUT ANYTHING. I ALREADY
7 MADE IT CLEAR ON THE RECORD HOW I FEEL ABOUT THIS THING.

8 MY REASON IS THAT SECOND COUNSEL IS NOT NEEDED
9 AT ALL. MR. BARENS IS COMPLETELY CAPABLE AND EXPERIENCED
10 IN HANDLING THE MATTER HIMSELF.

11 IF HE NEEDS ASSISTANCE OF HAVING RESEARCH WORK
12 DONE, THAT COULD BE DONE BY MR. CHIER. BUT I AM GOING BEYOND
13 THAT. I WILL PERMIT MR. CHIER TO ARGUE MOTIONS.

14 MR. CHIER: ARE YOU FINDING THAT I AM INCOMPETENT,
15 YOUR HONOR?

16 THE COURT: I AM NOT MAKING ANY FINDING. I HAVE NO
17 OPINION.

18 MR. CHIER: ARE YOU FINDING THAT I MISREPRESENTED --

19 THE COURT: YES.

20 MR. CHIER: WHAT DID I MISREPRESENT?

21 THE COURT: YOU MISREPRESENTED BEFORE JUDGE THOMAS.

22 MR. BARENS: YOUR HONOR --

23 THE COURT: YOU DIDN'T DISCLOSE TO HIM THAT YOU WERE
24 A PARTNER IN THIS MATTER AND THAT YOU WERE RECEIVING FEES
25 FROM THE DEFENDANT.

26

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1 MR. WAPNER: SPECIFICALLY, YOUR HONOR, THE PENAL CODE
2 ENTITLES A DEFENDANT TO HAVE TWO LAWYERS ARGUE THE CASE. WE
3 ARE NOT AT THAT POINT YET BUT WE MIGHT AS WELL GET THAT OUT
4 IN THE OPEN NOW.

5 THE COURT: ARGUE WHAT CASE?

6 MR. WAPNER: A DEATH PENALTY CASE.

7 THE COURT: HOW DO YOU MEAN ARGUE IT?

8 MR. WAPNER: I FORGET THE SPECIFIC SECTION.

9 MR. BARENS: IT IS -- I WILL GIVE IT TO YOU. IT IS
10 1095 OF THE PENAL CODE, 1095.

11 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

12 THE COURT: IT SAYS TWO TO EACH SIDE. THERE IS ONLY
13 ONE ON THIS SIDE SO, THEREFORE, THERE ISN'T TWO ON EACH SIDE.

14 DO YOU WANT ME TO READ IT TO YOU? IT SAYS THAT
15 ON AN OFFENSE PUNISHABLE WITH DEATH, THAT TWO COUNSEL
16 ON EACH SIDE MAY ARGUE THE CAUSE.

17 MR. BARENS: YES, YOUR HONOR.

18 THE COURT: THERE IS NOT TWO COUNSEL ON THEIR SIDE, THE
19 PEOPLE'S SIDE.

20 MR. BARENS: BUT THAT IS BY THEIR CHOICE, YOUR HONOR.

21 THE COURT: NO, NO.

22 MR. CHIER: THEY ARE ALLOWED TWO COUNSEL.

23 THE COURT: ONLY TWO BY TWO. IF HE HAS TWO, YOU HAVE
24 TWO.

25 HE HASN'T GOT TWO.

26 MR. BARENS: YOUR HONOR --

27 THE COURT: AT ANY RATE, I WILL ISSUE THE ORDER WITH
28 RESPECT TO THE ORDER IN WHICH THE CASE IS GOING TO BE TRIED

1 AND WHO SHOULD BE ARGUING IT.

2 MR. BARENS: ALL RIGHT, YOUR HONOR.

3 THE COURT: OKAY?

4 MR. BARENS: THANK YOU, YOUR HONOR.

5 THE COURT: OKAY, LET'S GET ON.

6 MR. CHIER: AM I NOT ALLOWED TO MAKE OBJECTIONS?

7 THE COURT: NO, NONE WHATEVER.

8 MR. BARENS: YOUR HONOR --

9 MR. CHIER: JUST SO I UNDERSTAND WHAT YOUR HONOR IS
10 SAYING.

11 THE COURT: YOU CAN WHISPER TO HIM, YOU CAN WHISPER
12 ANYTHING YOU WANT EXCEPT WHEN I AM TALKING TO HIM. DON'T
13 INTERRUPT ME WHEN I AM TALKING TO HIM AND TALK TO HIM BECAUSE
14 HE CAN'T HEAR ME AND HEAR YOU AT THE SAME TIME.

15 MR. CHIER: HE DOESN'T ALWAYS KNOW WHAT IT IS GOING
16 ON LEGALLY, YOUR HONOR.

17 THE COURT: I THINK HE KNOWS MORE ABOUT IT THAN YOU
18 DO, FRANKLY.

19 MR. CHIER: I KNOW YOU THINK THAT, YOUR HONOR.

20 THE COURT: I THINK THAT AND I KNOW THAT.

21 MR. BARENS: YOUR HONOR, COULD I GIVE A FOR INSTANCE?

22 OBVIOUSLY, THERE IS NO JURY IN THE ROOM TODAY
23 AND WE ARE GOING TO COME TO A POINT TODAY WHERE WE WILL ARGUE
24 THE MOTION BEFORE THE COURT TODAY.

25 THE COURT: WELL, YOU HAVE BEEN CONDUCTING THE ENTIRE
26 EXAMINATION AND I WILL PERMIT YOU TO ARGUE IT.

27 MR. BARENS: I KNOW.

28 BUT I AM GIVING A FOR INSTANCE TO YOUR HONOR.

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1 THE COURT: I THINK IT WOULD BE BETTER, IN THE INTERESTS
2 OF YOUR CLIENT, IF YOU ARGUE THE MATTER RATHER THAN HE BECAUSE
3 YOU CONDUCTED THE ENTIRE EXAMINATION.

4 MR. CHIER: DOES THE CLIENT HAVE ANYTHING TO SAY ABOUT
5 THIS, YOUR HONOR?

6 THE COURT: NO.

7 MR. BARENS: ALL RIGHT, THAT IS SUBMITTED.

8 THE COURT: I TOLD YOU TO WHAT EXTENT HE WOULD
9 PARTICIPATE IN THE CASE, ALL RIGHT.

10 MR. BARENS: I WAS JUST GIVING YOUR HONOR A FOR INSTANCE
11 THAT WOULD BE A TYPE OF THING THAT I BELIEVE YOUR HONOR'S
12 ORDER ENCOMPASSED THAT HE COULD ARGUE IF YOUR HONOR DEEMED
13 IT.

14 THE COURT: WHAT?

15 MR. BARENS: THIS BEING A LEGAL MOTION BASED ON RESEARCH
16 HE DID AND PERFORMED.

17 THE COURT: AREN'T YOU GOING TO ARGUE THE MOTION?

18 MR. BARENS: TODAY, WE WERE GOING TO MAKE THAT DECISION
19 DURING THE LUNCH HOUR. WE HAD NOT MADE THAT DECISION, IN
20 TRUTH AND IN FACT TO YOU, YOUR HONOR.

21 THERE IS A MOTION, TO BE CANDID WITH YOUR HONOR,
22 AND I REPRESENT THAT BEFORE, MR. CHIER PREPARED THE MOTION
23 TO DISMISS, HE DID THE RESEARCH ON IT. HE SPENT ALL OF THESE
24 HOURS WITH MR. HUNT IN THE LIBRARY GOING OVER THESE CASES.

25 THE COURT: IF YOU WANT TO DEFER TO HIM ON THIS MOTION,
26 I WILL PERMIT IT.

27 MR. BARENS: I APPRECIATE THAT.

28 THE COURT: I WILL PERMIT HIM TO ARGUE POINTS OF LAW

4
1 AND ARGUE THE MOTION.

2 MR. CHIER: MAY I SPEAK?

3 MR. BARENS: YOU ARE VALID ON THE APPOINTMENT.

4 MR. CHIER: AM I NOT IN THE CASE?

5 MR. BARENS: YOU DIDN'T SAY THAT AT ALL.

6 THE COURT: I DIDN'T SAY THAT.

7 MR. BARENS: I DON'T WANT YOUR HONOR TO ANNUL HIS ORDER.

8 THE COURT: YOU DON'T WANT ME TO?

9 MR. BARENS: I DON'T WANT YOU TO ANNUL HIS ORDER.

10 THE COURT: THEN I WILL RESPECT YOUR WISHES.

11 MR. BARENS: I AM SATISFIED AT THIS POINT.

12 ALL RIGHT, WE ARE JUST LEAVING.

13 (RECESS.)
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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 OPEN COURT WITHOUT THE PRESENCE OF THE
3 JURY:)

4 MR. BARENS: I NEED TO STEP INTO THE HALL TO LOOK FOR
5 MY WITNESS, YOUR HONOR.

6 (PAUSE IN PROCEEDINGS.)

7 MR. BARENS: I BELIEVE MY WITNESS IS UPSTAIRS AND I
8 JUST SENT A LAW CLERK TO SUMMON THE WITNESS, YOUR HONOR.

9 THE COURT: ALL RIGHT.

10 (FURTHER PAUSE IN PROCEEDINGS.)

11 THE COURT: YOU SAY THAT TULLENERS WILL BE HERE THIS
12 AFTERNOON?

13 MR. WAPNER: AT 1:30, YOUR HONOR, UNLESS HE CALLS ME
14 TO TELL ME DIFFERENTLY.

15 I DIDN'T KNOW THEY WANTED HIM UNTIL THIS MORNING.

16 (FURTHER PAUSE IN PROCEEDINGS.)

17 MR. BARENS: WE ARE GOING TO TAKE MR. HUNT OUT OF ORDER.

18 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
19 AND MR. CHIER.)

20 MR. BARENS: A MOMENT, YOUR HONOR. A DECISION ON THE
21 SEQUENCE HERE.

22 (FURTHER UNREPORTED COLLOQUY BETWEEN
23 MR. CHIER AND MR. BARENS.)

24 MR. BARENS: THE DEFENSE WOULD CALL THE DEFENDANT JOE
25 HUNT.

26 AND THE SCOPE OF WHICH IS LIMITED EXCLUSIVELY
27 FOR PURPOSES OF THE MOTION PRESENTLY BEFORE THE COURT RELATIVE
28 TO THE SEARCH OF THE RESIDENCE ON JANUARY 8 AND NOT AS TO

1 ANYTHING FURTHER.

2 I SAY THIS, YOUR HONOR, BECAUSE OF THE OBVIOUS
3 CONSTRAINTS I AM UNDER IN USING THE DEFENDANT.

4 THE COURT: THAT IS ALL RIGHT.

5
6 JOSEPH HUNT,
7 THE DEFENDANT HEREIN, CALLED AS A WITNESS IN HIS OWN BEHALF,
8 WAS SWORN AND TESTIFIED AS FOLLOWS:

9 THE CLERK: WOULD YOU RAISE YOUR RIGHT HAND?

10 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
11 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
12 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
13 YOU GOD.

14 THE WITNESS: YES, I DO.

15 THE CLERK: IF YOU WOULD BE SEATED THERE AND STATE YOUR
16 NAME FOR THE RECORD.

17 THE WITNESS: JOSEPH HUNT.

18
19 EXAMINATION

20 BY MR. BARENS:

21 Q. MR. HUNT, YOU ARE THE DEFENDANT IN THIS CASE?

22 A YES, I AM.

23 Q MR. HUNT, DURING THE COURSE OF OUR RELATIONSHIP --
24 AND I BELIEVE OUR RELATIONSHIP COMMENCED ON OR ABOUT
25 NOVEMBER 25, 1984?

26 A YES.

27 Q AND SUBSEQUENTLY, YOU WERE ADMITTED --
28 YOU WERE IN CUSTODY AT THAT TIME?

7
1 A YES, I WAS.

2 Q AND SUBSEQUENTLY, YOU WERE ADMITTED TO BAIL IN
3 APPROXIMATELY NOVEMBER OF 1985?

4 A YES.

5 Q SINCE NOVEMBER OF 1985, HAVE WE -- AND IN THIS
6 INSTANCE "WE" BEING MR. RICHARD CHIER, YOURSELF AND MYSELF,
7 WORKED TOGETHER IN THE PREPARATION OF YOUR DEFENSE?

8 A YES.

9 Q AND HAVE YOU BEEN GIVEN SPECIFIC ASSIGNMENTS BY
10 MYSELF AND MR. CHIER TO PERFORM CERTAIN ACTIVITIES IN THE
11 PREPARATION OF YOUR DEFENSE?

12 A YES, I HAVE.

13 Q COULD YOU PLEASE DESCRIBE TO HIS HONOR WHAT THOSE
14 ACTIVITIES WOULD HAVE INCLUDED?

15 A THEY INCLUDED AMONG OTHER THINGS, GOING TO THE
16 LIBRARY, PULLING CASES, DEVELOPING A COMPLETE CHRONOLOGY OF
17 BBC ACTIVITY AND MY OWN ACTIVITIES DURING 1983-'84 PERIODS.

18 THEY ALSO INCLUDED GOING THROUGH WITNESS TESTIMONY
19 AT THE PRELIMINARY HEARING OF JIM PITTMAN, MY PRELIMINARY
20 HEARING, THE TRIAL OF JIM PITTMAN, MAKING ANNOTATIONS OF THE
21 IMPORTANT POINTS, BRINGING THEM TO YOU TO DISCUSS THEM.

22 AND I ALSO ACTED AS A SCRIBE OR AN AMANUENSIS
23 DURING THE MEETINGS WITH RICHARD CHIER OR ARTHUR BARENS WHERE
24 I WOULD MAKE NOTATION OF SALIENT POINTS THAT OCCURRED TO THE
25 THREE OF US, OR OTHER THINGS AT YOUR DIRECTION.

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1 I WOULD TAKE THOSE HOME AND TRANSFER THEM ON A
2 COMPUTER PROGRAM WHICH WE CALLED THE MASTER CONTROL BOOK.
3 THERE WERE OTHER THINGS THAT I DID.

4 Q DID I ALSO ASK YOUR ASSISTANCE AND PARTICIPATION
5 IN THE PREPARATION OF CROSS-EXAMINATION DIALOGUES AND
6 PROJECTED, ANTICIPATED CROSS-EXAMINATION MATERIALS?

7 A YES.

8 Q ON ALL OF THE PROSECUTION WITNESSES, TO THE EXTENT
9 WE WERE ABLE TO ANTICIPATE WHO THE PROSECUTION WITNESSES WOULD
10 BE?

11 A YES. AN ATTEMPT WAS MADE ALSO TO MESH ISSUES
12 THAT WE WERE GOING TO BE DEVELOPING IN MY TESTIMONY WITH ISSUES
13 THAT WERE BEING BROUGHT UP WITH OTHER WITNESSES AND DEVELOP
14 CROSS-EXAMINATION TECHNIQUES.

15 Q ALL RIGHT. NOW, DID YOU PERFORM A CONSIDERABLE
16 PORTION OF THAT WORK, IF NOT ALL OF THE TYPEWRITTEN MATERIALS
17 YOU PROVIDED, IN YOUR HOME?

18 A YES.

19 Q AND WHEN I SAY IN YOUR HOME, I AM SPEAKING
20 COLLOQUIALLY OF COURSE, MEANING THE RESIDENCE OF BOBBY AND
21 LYNNE ROBERTS LOCATED IN BEL AIR.

22 A YES.

23 Q HAVE YOU CONTINUOUSLY RESIDED IN THAT RESIDENCE,
24 SINCE YOUR RELEASE FROM CUSTODY ON BOND?

25 A YES I HAVE.

26 Q AND DID YOU HAVE PRESENT IN THAT RESIDENCE, A
27 VARIETY OF MATERIALS CONSISTENT WITH THE PREPARATION OF YOUR
28 DEFENSE?

2
1 A YES I DID.

2 Q NOW, INCIDENTALLY, I WOULD LIKE TO MAKE REFERENCE
3 TO A SPECIFIC DOCUMENT. IS IT A FAIR STATEMENT AND A TRUE
4 STATEMENT TO HIS HONOR AND MYSELF, THAT TWO DAYS PRIOR TO
5 JANUARY 8, IN THIS COURTROOM IN THE MORNING HOURS, YOU HANDED
6 TO ME SOMETHING CALLED THE MASTER CONTROL FILE?

7 A YES I DID.

8 Q AND THAT WAS PRODUCED ON THE COMPUTER IN --
9 ADJACENT TO YOUR BEDROOM?

10 A YES.

11 Q WHAT WE HAVE BEEN REFERRING TO IN THIS COURTROOM
12 AS THE COMPUTER ROOM?

13 A YES.

14 Q AND COULD YOU AS GENERALLY AS YOU CAN MAKE IT,
15 DESCRIBE TO THE COURT WHAT THAT DOCUMENT CONSISTS OF, AS
16 GENERALLY AS YOU CAN MAKE IT, MR. HUNT?

17 A IT WAS THE CENTRAL FILE FOR THE DEFENSE. EVERY
18 ASPECT OF THE DEFENSE WAS TO BE OUTLINED IN THAT FILE AND
19 ALL OF THE MAJOR ASPECTS OF THE DEFENSE WERE ALREADY OUTLINED
20 IN THE FILE AT THE TIME THAT I TURNED IT OVER TO YOU ON
21 JANUARY 6. IT CONSISTS OF EXCERPTS FROM CROSS-EXAMINATION
22 AND DIRECT TESTIMONY --

23 Q I THINK YOU DESCRIBED IT ADEQUATELY.

24 DOES YOUR HONOR HAVE A SENSE FOR THE DOCUMENT?

25 THE COURT: YES.

26 Q BY MR. BARENS: WHY DON'T YOU PROCEED ALONG WITH
27 IT, MR. HUNT?

28 A IT WAS BROKEN DOWN INTO EVERY KEY AREA OF THE

1 PROSECUTION, EVERY AREA OF THE DEFENSE.

2 ALL IMPORTANT DEFENSE WITNESS TESTIMONY WAS BEING
3 OUTLINED IN THAT FILE. THE MAJOR TESTIMONY OF THE MOST
4 IMPORTANT DEFENSE WITNESSES WAS ALREADY ENCODED INTO THAT
5 FILE.

6 THERE WAS IN ADDITION, REFERENCE TO IMPORTANT
7 EXHIBITS THAT WERE GOING TO BE BROUGHT BY THE DEFENSE, WHICH
8 WERE UNKNOWN TO THE PROSECUTION, SO FAR AS I KNOW AT THIS
9 TIME, LISTED IN THAT FILE.

10 Q NOW MR. HUNT, YOU HAD PREPARED THAT MASTER CONTROL
11 FILE AT MY REQUEST, MY PERSONAL REQUEST AND PERSONAL DIRECTION,
12 IS THAT NOT THE CASE?

13 A YES. IT IS TRUE AND ALSO AT THE DIRECTION OF
14 RICHARD CHIER.

15 Q AND MR. HUNT, DURING THE PREPARATION OF -- IN
16 ANTICIPATION OF YOUR TRIAL, I HAD ON MANY OCCASIONS, POSED
17 CERTAIN QUESTIONS TO YOU THAT I FELT WERE TO BE AND I MAY
18 HAVE USED THE WORD "PIVOTAL" QUESTIONS. YOU RECALL THAT?

19 A YES.

20 Q AND DID THE MASTER CONTROL FILE HAVE THE
21 DISCUSSION AND ANALYSIS OF WHAT I INDICATED TO YOU I
22 ANTICIPATED WOULD BE PIVOTAL QUESTIONS?

23 A YES. THOSE AREAS WERE OUTLINED IN THE FILE.

24 THERE WAS, OTHER THAN ON THE "TO DO" SECTION OF
25 THE FILE, THERE WAS BASICALLY NOTHING THAT HAD NOT BEEN
26 DEVELOPED IN CONVERSATIONS BETWEEN THE THREE OF US OR BETWEEN
27 THE TWO OF US.

28 Q NOW, DID YOU HAVE A SYSTEM WHEREBY I HAD ASKED

1 YOU TO HEADNOTE FOR MY EASY REFERENCING DURING TRIAL, THE
2 PREPARATION OF THOSE MATERIALS SO THAT THERE WOULD BE EITHER
3 A SINGLE WORD OR A SINGLE PHRASE, THAT WOULD TAKE ME TO WHAT
4 I WAS LOOKING FOR?

5 A YOU INDICATED THAT YOU WANTED HEADINGS TO BE AS
6 BRIEF AS POSSIBLE BECAUSE IN THE HEAT OF TRIAL, YOU WANTED TO
7 BE ABLE TO READILY ACCESS THE MATERIAL. SO YOU NEEDED
8 SHORT CAPTIONS.

9 Q YOU HEARD ME HAVE A COLLOQUY WITH HIS HONOR
10 YESTERDAY, WHERE THE POINT I WAS TRYING TO MAKE TO HIS HONOR,
11 WAS THAT EVEN A CURSORY LOOK AT THOSE PAGES WOULD BE HIGHLY
12 INDICATIVE OF THE DEFENSE STRATEGY BECAUSE THE HEADNOTES WERE
13 RATHER REVEALING, LET'S SAY.

14 WOULD THAT BE YOUR OPINION AS WELL, MR. HUNT?

15 A YES IT WAS, ESPECIALLY SINCE MOST OF THE DEFENSE
16 IS COMPLETELY UNKNOWN TO MR. WAPNER OR THE PROSECUTION AT
17 THIS TIME.

18 THERE WERE THINGS -- THERE WERE WORDS AND PHRASES
19 THAT WOULD ALERT ONE TO THE FACT OF THE TYPE OF DEFENSE THAT
20 HAS BEEN CHOSEN IN THE SITUATION.

21 Q NOW MR. HUNT, WHERE WAS THE MASTER CONTROL FILE
22 LOCATED IN YOUR -- WELL, STRIKE THAT.

23 WAS THE MASTER CONTROL FILE, YOUR COPIES OF IT,
24 LOCATED IN THE COMPUTER ROOM?

25 A YES.

26 THE COURT: WAIT A MINUTE. THERE WERE COPIES MADE,
27 WERE THERE?

28 MR. BARENS: I AM COMING TO IT IF I COULD.

1 THE COURT: WHAT YOU ARE TALKING ABOUT, WERE THE COPIES
2 LOCATED OR THE ORIGINALS?

3 MR. BARENS: IF I COULD ASK HIM THE QUESTIONS, YOUR
4 HONOR.

5 THE COURT: GO AHEAD.

6 Q BY MR. BARENS: MR. HUNT, WAS THERE PRESENT IN
7 THE COMPUTER ROOM, A FIRST DRAFT THAT YOU HAD PRINTED OUT,
8 PRELIMINARY TO THE DRAFT YOU DELIVERED TO ME IN THE COURTROOM?

9 THE COURT: ON JANUARY THE 8TH, YOU MEAN?

10 MR. BARENS: WELL, HE DELIVERED IT TO ME ON THE 6TH
11 I SUBMIT, YOUR HONOR.

12 THERE WAS A PRELIMINARY DRAFT THAT WAS IN THE
13 COMPUTER ROOM NEXT TO THE BEDROOM.

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1 THE COURT: JANUARY THE 8TH?

2 MR. BARENS: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 THE WITNESS: YES THERE WAS. THERE WAS FOR
5 CLARIFICATION'S SAKE, THERE WAS A PROBLEM WITH THE PRINTING
6 FORM FEED ON MY PRINTER.

7 AS A RESULT, WHEN I WAS PRINTING THE COPY FOR
8 YOU, AFTER IT HAD GOTTEN TO ABOUT PAGE 35 OR 40 OF THIS
9 MASTER CONTROL FILE PRINTOUT, THE PRINTER JAMMED.

10 AS A RESULT, ONE OF THE FIRST COPIES THAT I TRIED
11 TO MAKE OF THIS FOR PRESENTATION TO YOU, WAS FOULED IN THE
12 PIN FEED.

13 AND I HAD TAKEN IT OUT AND THROWN IT IN THE TRASH
14 CAN. THEN I DID ANOTHER RUN FOR MYSELF, WHICH I HAD RIPPED
15 APART VARIOUS SECTIONS OF AND WAS LAYING VARIOUS PLACES AROUND
16 THE ROOM AS I WAS REFERENCING CERTAIN ASPECTS.

17 THEN, ONE MORE COPY WAS BROUGHT TO YOU ON
18 JANUARY 6, AS YOU KNOW.

19 Q BY MR. BARENS: SO IN FACT, DRAFTS OF A MASTER
20 CONTROL FILE WERE PRESENT IN THE COMPUTER ROOM, AS WELL AS
21 YOU KNOW, WHEN THE SEARCH WAS CONDUCTED OF THE ROBERTS'
22 RESIDENCE?

23 A YES.

24 Q NOW, COULD YOU DESCRIBE TO THE COURT, ANY OTHER
25 DEFENSE MATERIALS AS GENERALLY AS YOU CAN, THAT WOULD HAVE
26 BEEN PRESENT, THAT YOU KNOW TO HAVE BEEN PRESENT IN THE
27 COMPUTER ROOM ON JANUARY 8, 1987?

28 A IT WOULD BE BASICALLY IN THREE AREAS. THE FIRST

1 AREA WOULD BE DEFENSE NOTEBOOKS WHICH CONSISTED OF -- THEY
2 HAVE BEEN DISCUSSED BEFORE. THEY WERE BLACK NOTEBOOKS. THEY
3 WERE REFERENCED IN OSCAR BREILING'S TESTIMONY, I BELIEVE.

4 MR. BARENS: I DON'T FEEL THAT YOU HAVE TO FURTHER
5 DESCRIBE WHAT WAS IN THE NOTEBOOKS. IS YOUR HONOR SATISFIED?

6 THE COURT: YES.

7 THE WITNESS: IT WAS DISCOVERY MATERIALS SOLELY IN THOSE
8 NOTEBOOKS.

9 Q BY MR. BARENS: YES, MR. HUNT?

10 A IT WAS SOLELY DISCOVERY MATERIALS IN THOSE
11 NOTEBOOKS.

12 THE COURT: DISCOVERY MATERIALS?

13 THE WITNESS: THINGS ONLY GIVEN TO US, XEROX COPIES
14 BY THE PROSECUTION.

15 THE COURT: IN THOSE NOTEBOOKS?

16 Q BY MR. BARENS: AS ONE OF YOUR ACTIVITIES, I HAD
17 ASKED OF YOU, YOU HAD TAKEN ALL OF THE BOXES OUT OF MY OFFICE
18 AND PUT THEM ALL IN NOTEBOOKS IN SOME ORDERLY FASHION,
19 HOPEFULLY?

20 A YES.

21 Q ALL RIGHT. AND WHAT ELSE WAS PRESENT IN THE
22 COMPUTER ROOM?

23 A ON THE BED, THERE WAS A CARDBOARD TRAY WHICH
24 CONTAINED EXHIBITS WHICH HAD BEEN SELECTED FROM A VOLUME OF
25 MATERIAL I HAD IN MY POSSESSION.

26 THEY CONSISTED OF EXHIBITS THAT BEARED UPON THE
27 VERACITY OF PROSECUTION WITNESSES, KEY PROSECUTION WITNESSES
28 AND COULD ALSO BE USED IN SUPPORT OF MY TESTIMONY.

1 THERE WERE SOME SIXTY-ODD EXHIBITS. SOME OF THE
2 EXHIBITS CONSISTED OF SEVERAL DIFFERENT DOCUMENTS AND THE
3 TOTAL NUMBER OF EXHIBITS EXCEEDS 80, I SHOULD THINK.

4 Q NOW, SOME OF THOSE EXHIBITS HAD BEEN SHOWN TO
5 MR. CHIER AND MYSELF, IS THAT CORRECT?

6 A I WOULD SAY 90 PERCENT OF THEM HAD.

7 Q WERE THERE SOME OF THEM THAT HAD NOT BEEN SHOWN
8 TO MR. CHIER AND MYSELF, BUT PERHAPS ONLY DISCUSSED WITH
9 MR. CHIER AND MYSELF?

10 A YES. THAT IS TRUE.

11 Q NOW, WHERE SPECIFICALLY WERE THOSE MATERIALS
12 LOCATED, SIR?

13 A WHEN I LEFT THE ROOM LAST, THEY WERE LOCATED ON
14 THE BED ADJACENT TO THE DESK, UPON WHICH THE COMPUTER WAS
15 SITTING IN THE COMPUTER ROOM.

16 Q COULD YOU DESCRIBE TO THE COURT, IF I WERE LOOKING
17 AT THOSE FROM A DISTANCE -- BY NOW I AM NOT SAYING LOOKING
18 AT THEM WHERE I AM JUST TAKING A LOOK AT THEM, BUT PICKING
19 THEM UP AND I AM LOOKING OVER AT THEM, WHAT WOULD THEY LOOK
20 LIKE?

21 A THEY WOULD HAVE YELLOW, POST-IT STICKERS ON THEM.
22 THEY WOULD BE DOCUMENTARY IN NATURE AND OF ALL DIFFERENT SHAPES
23 AND SIZES.

24 Q ALL RIGHT, MR. HUNT. COULD YOU DESCRIBE THE
25 PURPOSE OF THE POST-IT STICKERS?

26 A EACH POST-IT STICKER HAD A NUMBER ON IT WHICH
27 CORRESPONDED TO A COMPUTER PROGRAM LIST THAT I HAD, WHICH
28 WAS A COMPUTER CHRONOLOGY.

1 I HAD SIX HUNDRED SOME ODD DATELINE ITEMS IN THE
2 COMPUTER ROOM AT THE TIME OF THEIR ENTRY.

3 THE DATE LINE ITEMS IN SOME CASES CORRESPONDED
4 TO AN EXHIBIT IN THE COMPUTER FILE AND IN THE PRINTED LISTINGS
5 THAT WERE IN MY ROOM.

6 THEY WOULD MAKE REFERENCE TO PARTICULAR EXHIBITS
7 BY NUMBER.

8 THOSE EXHIBIT NUMBERS CORRESPONDED TO THE EXHIBITS
9 THAT WERE ON THE BED.

10 I MIGHT NOTE THAT ON TOP OF THE EXHIBITS, WAS
11 ONE OF THESE COMPUTER RUNS THAT HAD BEEN SORTED, JUST FOR
12 THE EXHIBITS.

13 Q NOW MR. HUNT, ALL OF THE DEFENSE MATERIALS THAT
14 YOU ARE TALKING ABOUT, WERE GENERATED BY YOURSELF, SUBSEQUENT
15 TO OCTOBER 22, 1984?

16 A YES.

17 Q IS IT YOUR PRACTICE FOR INSTANCE --

18 MR. WAPNER: EXCUSE ME. COULD I HAVE THAT QUESTION
19 AND ANSWER READ BACK?

20 THE COURT: YES. READ IT BACK, PLEASE.

21 (THE RECORD WAS READ BY THE REPORTER.)

22 MR. BARENS: LET ME MAKE MY QUESTION MORE SPECIFIC.

23 Q BY THAT REFERENCE, WHEN I SAY "GENERATED" I AM
24 REFERRING TO THE MATERIALS THAT WERE TYPED BY MR. HUNT OR
25 PRODUCED ON THE COMPUTER BY WAY OF THE MASTER CONTROL FILE,
26 THE INDEXES AND INVENTORIES AND CROSS-REFERENCES.

27 BY THIS REFERENCE, I AM NOT MR. HUNT, REFERRING
28 TO THE SIXTY ODD EXHIBITS ON THE BED WITH SUB PARTS.

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DO YOU UNDERSTAND THAT?

A YES I DO.

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1 Q NOW, IS IT YOUR TESTIMONY THAT THE COMPUTER
2 GENERATED MATERIALS WERE ALL PREPARED BY YOURSELF, NOT
3 ONLY SUBSEQUENT TO '84, BUT ACTUALLY STARTING AT THE LATTER
4 PART OF 1985?

5 A YES.

6 I ONLY GOT THE COMPUTER IN 1985.

7 Q NOW, DID YOU HAVE ANY DATING REFERENCES ON THE
8 MATERIALS YOU ARE DESCRIBING THAT COULD INDICATE TO SOMEONE
9 WHEN IT WAS PREPARED?

10 A A LARGE NUMBER OF THEM, BY THE NATURE OF THE
11 PROGRAM, PRINT THE DATE AND TIME AT THE TOP OF THE PAGE.

12 SOME OF THEM, LIKE THE COMPUTER GENERATED
13 CHRONOLOGIES DON'T HAVE THEM, A TIME AND TIME LINE AT THE
14 TOP.

15 BUT THE MASTER CONTROL PROGRAM, I BELIEVE, DOES.

16 Q ALL RIGHT. DID YOU ALSO HAVE PRESENT IN THE
17 COMPUTER ROOM CORRESPONDENCE AND MEMORANDA BOTH OF A TYPEWRITTEN
18 NATURE AND OF A HANDWRITTEN NATURE THAT I PERSONALLY HAD
19 AUTHORED AND EITHER MAILED TO YOU OR HANDED TO YOU?

20 A YES.

21 Q IN THOSE TYPES OF MATERIALS, DID YOU AND I HAVE
22 WHAT -- WHAT I HAVE BEEN RESPONDING OR DISCUSSING, CERTAIN
23 CONVERSATION OR DIALOGUE WE HAD ABOUT ISSUES INVOLVING THE
24 DEFENSE OF YOUR CASE?

25 A IN A SMALL PART, YES.

26 MOST OF THE MEMORANDA WERE -- WERE OFFICE MATERIALS
27 BACK AND FORTH.

28 Q SOME OF THEM, HOWEVER, YOU WERE IN POSSESSION

1 OF HANDWRITTEN MATERIALS OF MINE WHERE PERHAPS DURING MEETINGS
2 IN MY OFFICE I HAD WRITTEN THINGS DOWN, YOU MADE A COPY OF
3 SO YOU COULD REMEMBER WHAT WE WERE TALKING ABOUT?

4 A YES.

5 Q NOW, MR. HUNT, UPON RETURNING HOME AFTER --
6 DID YOU RETURN HOME AFTER THE COURT SESSION ON
7 JANUARY 8?

8 A YES, I DID.

9 Q AND WERE YOU AWARE PRIOR TO YOUR RETURN THERE
10 THAT THERE HAD BEEN THE EXERCISE OF A SEARCH WARRANT FOR THE
11 ROBERTS RESIDENCE?

12 A YES.

13 Q DID YOU GO HOME WITH THE INTENT IN MIND TO SEE
14 IF ANY OF YOUR MATERIALS WERE MISSING?

15 A YES.

16 Q DID YOU DETERMINE THAT ANY OF YOUR MATERIALS
17 WERE MISSING?

18 A YES, I DID.

19 Q WHAT MATERIALS WERE MISSING AS GENERALLY AS YOU
20 CAN DESCRIBE THEM, SIR, IN THE RESPECT THAT THEY -- STRIKE
21 THAT. LET ME START THAT OVER.

22 MR. HUNT, PLEASE ADVISE THE COURT AND MYSELF
23 WHAT MATERIALS WERE MISSING. TO THE EXTENT YOUR ANSWER WOULD
24 NECESSARILY INVOLVE YOUR MAKING REFERENCE TO DEFENSE MATERIALS,
25 BE AS GENERAL AS YOU COULD BE.

26 IN ANY OTHER RESPECT, YOUR ANSWER MAY BE AS SPECIFIC
27 AS YOU DESIRE.

28 THE COURT: ALL RIGHT. PARDON ME. LET ME INTERRUPT.

3
1 DIDN'T THE ATTORNEY GENERAL TELL US THAT THE MATERIALS OR
2 BOXES OR COPIES OF THEM WOULD BE DELIVERED TO YOU AND BE HERE
3 BY 10:00 O'CLOCK?

4 MR. BARENS: I THOUGHT THAT IS WHAT HE SAID.

5 MR. WAPNER: HE SAID THAT THEY WOULD BE AT THE ATTORNEY
6 GENERAL'S OFFICE ON MID WILSHIRE BY 10:00 O'CLOCK. I CALLED
7 ABOUT TEN AFTER 10:00 AND THEY WERE THERE AND I SENT SOMEONE
8 TO GET THEM AND I BELIEVE HE PROBABLY LEFT HERE AT APPROXI-
9 MATELY 10:30.

10 THE COURT: THEY WILL BE HERE THIS AFTERNOON?

11 MR. WAPNER: THEY MAY BE HERE BEFORE NOON, YOUR HONOR.

12 THE COURT: GOOD.

13 WELL, I AM SORRY. GO AHEAD.

14 Q BY MR. BARENS: THANK YOU, YOUR HONOR.

15 MR. HUNT, DO YOU REMEMBER MY QUESTION?

16 A YES, I DO.

17 Q YOUR ANSWER, SIR?

18 A THERE WAS A TELEPHONE BILL THAT WAS TAKEN.

19 THERE WAS -- THERE WERE THOUSANDS OF PIECES OF
20 PAPER IN MY ROOMS AND THE OFFICE.

21 I AM STILL FINDING THINGS THAT ARE MISSING.
22 NINETY-FIVE PERCENT OF IT WAS THINGS THAT I WOULD CALL DEFENSE
23 MATERIAL. A LOT OF IT WAS BBC DOCUMENTS.

24 THE COURT: YOU SAY 95 PERCENT OF IT WAS DEFENSE
25 MATERIALS?

26 THE WITNESS: I WAS GOING TO DESCRIBE WHY.

27 THE COURT: IN THIS CASE?

28 THE WITNESS: YES, YOUR HONOR.

4
1 THE COURT: ALL RIGHT, TELL US WHAT THEY ARE.

2 THE WITNESS: THE COMPLETE GROUP OF DOCUMENTS I
3 PREVIOUSLY DESCRIBED HAVING POST-IT STICKERS UPON THEM AND
4 THAT WAS ON THE BED, THAT WAS MISSING SAVE FOR TWO ITEMS.

5 ONE OF THE REMAINING ITEMS WAS A DEPOSITION AND
6 A CIVIL LITIGATION THAT COMMENCED IN 1984 WHICH INVOLVED MYSELF.

7 THE OTHER ONE HAD SOME LETTERS, I BELIEVE, THAT
8 I WROTE FROM JAIL TO YOURSELF, THAT WAS LEFT BEHIND.

9 THERE WAS, IN ADDITION, A VARIETY OF OTHER PAPERS
10 THAT WERE BEING CATALOGUED. I SELECTED THEM, AS I FELT THAT
11 IN CERTAIN CIRCUMSTANCES THEY COULD BEAR UPON ISSUES OF
12 IMPEACHMENT FOR THE WITNESSES.
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1 Q BY MR. BARENS: COULD I CAUTION YOU, MR. HUNT,
2 JUST TO USE THAT EXPRESSION AND REFRAIN FURTHER DESCRIPTION,
3 SIR.

4 A YES.

5 THERE WERE -- THERE WAS A PAPER WHICH, THOUGH
6 I GUESS IT DOES BEAR TANGENTIALLY ON DEFENSE ISSUES, THAT
7 MR. WAPNER HAS ALREADY SEEN, WHICH WAS THAT JANUARY 5, '87
8 PAPER.

9 Q MR. HUNT, DURING THIS EXAMINATION --

10 THE REMARK IS IN THE RECORD.

11 ALL RIGHT, JUST A MOMENT. I HAVE A PROBLEM WITH
12 THAT LAST REMARK, YOUR HONOR, IF YOU WOULD?

13 (UNREPORTED COLLOQUY BETWEEN MR. CHIER
14 AND MR. BARENS.)

15 Q BY MR. BARENS: AGAIN, MR. HUNT, BOTH ON MY
16 EXAMINATION AND MR. WAPNER'S CROSS-EXAMINATION, I AM
17 ADMONISHING YOU NOT TO MAKE ANY SPECIFIC COMMENT OR GENERAL
18 COMMENT THAT WOULD IN ANY WAY INDICATE THE NATURE, COMPOSITION
19 OR EXTENT OF ANY DEFENSE MATERIALS OR ORIENTATION, AS I DO
20 NOT WANT EITHER MYSELF OR YOURSELF TO SAY ANYTHING THAT WOULD
21 BE INDICATED AS A WAIVER. DO YOU UNDERSTAND ME, MR. HUNT?

22 A YES, I DO.

23 Q ALL RIGHT. SUFFICE IT, IT WAS YOUR OPINION AND
24 REMAINS YOUR OPINION THAT MATERIALS IMPORTANT TO THE DEFENSE
25 AND GERMANE TO YOUR DEFENSE WERE MISSING IN FACT?

26 A YES.

27 Q DID YOU AT THAT TIME MAKE ANY ATTEMPT TO SECURE
28 OR PLACE YOURSELF IN A POSITION TO IDENTIFY WHAT MATERIALS

1 REMAINED IN THE TWO BEDROOMS?

2 A YES, I DID.

3 Q AND COULD YOU PLEASE DESCRIBE TO THE COURT WHAT
4 YOU DID?

5 A WHEN I CAME HOME AND I MET BOBBY AND LYNNE IN
6 THE KITCHEN, I REALIZED THAT IT WOULD BE IMPORTANT TO PUT
7 ALL OF THE THINGS THAT THEY HAD SEEN BUT LEFT BEHIND IN A
8 PLACE WHERE THEY WOULD BE SECURE AND COULD BE PRODUCIBLE IF
9 NECESSARY.

10 SO I ASKED BOBBY AND LYNNE TO ACCOMPANY ME
11 UPSTAIRS AND TO STAY WITH ME WHILE I WAS IN THE BEDROOM, OR
12 WHAT WE CALL THE COMPUTER ROOM, AND I TOOK ALL -- ALL OF THE
13 PAPERS THAT WERE OF CRITICAL IMPORTANCE THAT WERE READILY
14 EXAMINABLE. THEY WERE IN PLACES THAT WERE EASILY SEEN ABOUT
15 THE ROOM. AND I PUT THEM IN ENVELOPES AND SEALED THEM IN
16 THE PRESENCE, THE UNINTERRUPTED PRESENCE, I MIGHT SAY, OF
17 LYNNE ROBERTS. BOBBY ROBERTS WAS THERE FOR SOME OF IT.

18 AND I HAD HER IN HER HANDWRITING MARK DOWN WHAT
19 THOSE THINGS APPARENTLY WERE AND TO WRITE ACROSS THE SEALS
20 OF MOST OF THE ENVELOPES.

21 Q ALL RIGHT, MR. HUNT, IS IT YOUR STATE OF MIND
22 THAT THE SEARCH AND SEIZURE CONDUCTED IN THE COMPUTER ROOM
23 IN YOUR BEDROOM ON JANUARY 8, 1987, HAS HAD A CHILLING EFFECT
24 ON YOUR ASSISTANCE WITH YOUR COUNSEL IN THE PREPARATION OF
25 YOUR DEFENSE?

26 MR. WAPNER: OBJECTION. THAT CALLS FOR A CONCLUSION,
27 YOUR HONOR.

28 THE COURT: SUSTAINED.

1 Q BY MR. BARENS: MR. HUNT, COULD YOU PLEASE
2 DESCRIBE TO ME WHAT IMPACT THE SEARCH AND SEIZURE INTO THE
3 BEDROOMS HAS HAD ON YOUR PREPARATION OF YOUR DEFENSE AND
4 COOPERATION WITH YOUR COUNSEL IN THE PREPARATION OF YOUR
5 DEFENSE, IF ANY?

6 A WELL, I HAVE HAD A VERY DIFFICULT TIME TRYING
7 TO FIGURE OUT HOW TO PROCEED BOTH IN TERMS OF, YOU KNOW, THE
8 CLIENT-ATTORNEY PRIVILEGE, SEEMS TO ME FAIRLY DUBIOUS, AT
9 THIS POINT OF LITTLE MOMENT. I FEEL THAT I HAVE BEEN -- IT
10 HAS AFFECTED MY THINKING AS FAR AS THE PRIVACY OF
11 COMMUNICATIONS WHERE I CAN WRITE ANYTHING DOWN ANYMORE,
12 WHETHER I CAN CONTINUE TO BUILD A COMPUTER FILE FROM MY RE-
13 COLLECTIONS AND WHETHER EVEN IF I DID THOSE THINGS IN YOUR
14 OFFICE, WHETHER THEY WOULD BE SAFE.

15 Q DID YOU, AFTER JANUARY 8, 1987, SIR, EXPRESS
16 RESERVATIONS TO MR. CHIER AND MYSELF ABOUT YOUR CONTINUED
17 PARTICIPATION IN THE PREPARATION OF YOUR DEFENSE?

18 A YES, I DID.

19 I WAS WONDERING WHETHER, IF I WAS THE PERSON
20 THAT WAS ACTUALLY PREPARING THESE FILES, WHETHER IT BECOMES
21 SOME SORT OF WAIVER OF MY RIGHTS AGAINST SELF-INCRIMINATION,
22 THE FIFTH AMENDMENT PRIVILEGES, WHETHER WE SHOULD HAVE SOMEBODY
23 ELSE DO IT OR SOMETHING LIKE THAT.

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A-1
1 THE COURT: DO WHAT? I DON'T UNDERSTAND THAT. CAN
2 YOU EXPLAIN IT? WILL YOU?

3 THE WITNESS: CERTAINLY.

4 THE COURT: GO AHEAD.

5 THE WITNESS: WE WERE GOING TO INDICATE BY COMPENDIUM
6 FILES OR SUMMARIES OF CASE IDEAS WHETHER SOMEBODY ELSE SHOULD
7 BE DOING IT, SO IT COULDN'T BE CONSTRUED AS A STATEMENT OF
8 ADMISSION OF MINE THAT WOULD SOMEHOW, FIND ITS WAY INTO COURT.

9 Q BY MR. BARENS: COULD YOU TELL US, WERE YOU
10 AFRAID THAT IF THERE WAS A SUBSEQUENT SEARCH AND THOSE WERE
11 CONNOTATIONS AND COMMENTARIES THAT YOU HAD CREATED, THAT COULD
12 APPEAR THAT YOU HAD MADE STATEMENTS THAT WOULD COME BEFORE
13 THE COURT, EXTRAJUDICIAL STATEMENTS THAT WOULD END UP IN THIS
14 COURTROOM?

15 A YES.

16 Q AND HAS IT BEEN A CONCERN OF YOURS, THAT MATERIALS
17 TAKEN BY THE POLICE ELEMENTS, THAT WERE TAKEN IN THAT SETTING,
18 COULD COME BEFORE THE COURT?

19 A YES.

20 MR. BARENS: NOTHING FURTHER.

21 THE COURT: ALL RIGHT. MR. WAPNER?

22
23 EXAMINATION

24 BY MR. WAPNER:

25 Q MR. HUNT, IN THE PREPARATION OF YOUR DEFENSE,
26 YOU HAVE DONE A GREAT DEAL OF LEGAL WORK, HAVE YOU NOT?

27 A YES I HAVE.

28 Q HAVE YOU READ A LOT OF THE CASES DESCRIBED BY

1 YOUR ATTORNEYS IN PREPARATION FOR THESE PROCEEDINGS?

2 A YES.

3 MR. BARENS: WHICH MOTIONS SPECIFICALLY, MR. WAPNER?

4 THE COURT: THIS MOTION, HE SAID.

5 MR. BARENS: HE IS SAYING THE MOTION TO DISMISS? IS
6 THAT WHAT YOU ARE SAYING, MR. WAPNER?

7 MR. WAPNER: I CAN BE MORE SPECIFIC.

8 Q DID YOU READ FIRST OF ALL IN GENERAL, HAVE YOU
9 BEEN ACTIVE IN ACTUALLY FINDING AND SELECTING CASES AND BRINGING
10 THEM TO THE ATTENTION OF YOUR ATTORNEYS?

11 A IN SOME SITUATIONS, YES.

12 Q AND IN THIS PARTICULAR SITUATION, I ASSUME THAT
13 YOU HAVE QUITE A LOT OF INTEREST IN THE OUTCOME OF THIS MOTION
14 TO DISMISS YOUR CASE? WOULD THAT BE A FAIR STATEMENT?

15 MR. BARENS: YOUR HONOR, --

16 THE COURT: THAT IS OBVIOUS, OF COURSE. GO AHEAD.

17 MR. BARENS: I OBJECT TO THE NATURE OF THAT QUESTION.

18 THE COURT: I WILL SUSTAIN IT.

19 Q BY MR. WAPNER: MR. HUNT, DID YOU READ THE BARBER
20 CASE THAT YOUR ATTORNEY CITED IN PREPARATION OF THIS MOTION?

21 A YES I HAVE.

22 Q YOU ARE AWARE OF WHAT THAT CASE SAYS, AREN'T YOU?

23 A YES I DO.

24 Q ALL RIGHT. AND HAVE YOU READ SOME CASES THAT
25 HAD TO DO WITH THE FIFTH AMENDMENT AND FIFTH AMENDMENT
26 PROVISIONS IN PREPARATION FOR THIS MOTION?

27 A I HAVE SEEN SOME OBLIQUE REFERENCES TO THE FIFTH
28 AMENDMENT PRIVILEGES IN SOME OF THE CASES. BUT THE CASES

1 WERE NOT ON THE SUBJECT PREDOMINANTLY, NO.

2 Q THE BOX -- EXCUSE ME. THE ITEMS THAT YOU SAID
3 WERE INTENDED TO BE DEFENSE EXHIBITS WITH POST IT STICKERS
4 ON THEM WERE IN A CARDBOARD TRAY ON THE BED, CORRECT?

5 A YES.

6 Q DESCRIBE WHAT THE CARDBOARD TRAY LOOKED LIKE.

7 A IT WAS LIGHT BROWN OR TAN IN COLOR. IT WAS VERY
8 FLIMSY. IT WOULD HAVE HAD ABOUT A TWO AND A HALF INCH LIP
9 AND I THINK THAT IT WAS ABOUT LEGAL SIZE.

10 I BELIEVE THAT IT WAS THE BOX BOTTOM OF A MANILA
11 FOLDER SUPPLIES BOX.

12 Q OKAY. SO IF YOU GET A BOX OF MANILA FOLDERS,
13 THIS WOULD BE THE BOX THAT THE FOLDERS WOULD COME IN?
14 RIGHT?

15 A YES.

16 Q OKAY. AND WHEN YOU SAY "EXHIBITS," WERE THOSE
17 IN THE MAIN, THINGS THAT WERE INTENDED TO BE USED IN
18 QUESTIONING OF WITNESSES WHO MIGHT TESTIFY?

19 MR. BARENS: AGAIN, I WOULD ADMONISH THE WITNESS TO
20 TRY TO ANSWER THAT --

21 THE COURT: HE WAS ALREADY ADMONISHED. YOU DON'T HAVE
22 TO DO IT AFTER EVERY QUESTION.

23 MR. WAPNER: I DON'T THINK IT TENDS TO REVEAL THE
24 CONTENTS SPECIFICALLY OF ANY DOCUMENTS.

25 THE COURT: I DON'T THINK SO. YOU MAY ANSWER.

26 THE WITNESS: THEY WERE BOTH FOUNDATIONAL MATERIALS
27 FOR THE DEFENSE AND IN SOME INSTANCES, BEARED ON THE PRIOR
28 TESTIMONY OF WITNESSES.

1 Q BY MR. WAPNER: WERE THEY FOR THE MOST PART,
2 INTENDED TO BE USED FOR WITNESSES WHO WOULD TESTIFY THAT THEY
3 HAD BEEN ACQUAINTANCES OF YOURS OR MEMBERS OF THE BBC?

4 MR. BARENS: YOUR HONOR, COULD I HAVE THAT QUESTION
5 BACK AGAIN, PLEASE?

6 MR. WAPNER: LET ME APPROACH IT IN A DIFFERENT WAY,
7 YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 Q BY MR. WAPNER: MR. HUNT, THOSE DOCUMENTS THAT
10 WERE INTENDED TO BE EXHIBITS WERE THINGS THAT YOU HAD
11 COLLECTED FROM -- THAT HAD BEEN AUTHORED AT VARIOUS TIMES
12 BEFORE YOU BEGAN PREPARING FOR THE DEFENSE IN THIS CASE.
13 IS THAT A FAIR STATEMENT?

14 A MIGHT I ASK MY ATTORNEY? I THINK THERE IS AN
15 IMPLICATION IN MY ANSWER WHICH --

16 THE COURT: YOU COULD ANSWER IN GENERAL TERMS WITHOUT
17 TELLING US SPECIFICALLY WHAT IT IS.

18 MR. BARENS: IT IS DIFFICULT, KNOWING THE MATERIALS
19 MYSELF, TO --

20 THE COURT: YOU ARE MAKING IT VERY DIFFICULT FOR THE
21 DISTRICT ATTORNEY, BY THIS GENERALIZED EXPRESSION, THAT YOU
22 DON'T TALK ABOUT ANY DEFENSE MATTER.

23 HE DOESN'T KNOW WHAT TO INQUIRE INTO. IF YOU
24 LIMIT HIM THAT WAY --

25 MR. WAPNER: LET ME ASK YOU A COUPLE OF OTHER
26 QUESTIONS. MAYBE WE CAN COME AT THIS ANOTHER WAY. IF THAT
27 STILL DOESN'T WORK, WE'LL GET TO IT.

28 Q THE ITEMS THAT YOU CLAIM WERE INTENDED TO BE USED

1 AS DEFENSE EXHIBITS, THAT WERE ON THE BED IN THE CARDBOARD
2 BOX, YOU SAID THAT ALL OF THEM BUT TWO, WERE GONE WHEN YOU
3 CAME BACK THAT AFTERNOON?

4 A YES.

5 Q AND DID YOU DO A SEARCH OF THE ROOM LATER THAT
6 AFTERNOON, RIGHT? WHEN YOU GOT HOME?

7 A WELL, I SEALED THE THINGS THAT WERE IN THE OBVIOUS
8 LINE OF SIGHT, THAT WERE AROUND THE ROOM. I DIDN'T SEARCH
9 THE THING ENTIRELY. I DIDN'T GO THROUGH THAT NUMBER OF THINGS.

10 Q WELL, LET ME JUST SEE IF I CAN TELL YOU WHAT I
11 AM GETTING AT. THERE ARE TWO DIFFERENT WAYS THAT THEY COULD
12 HAVE DISAPPEARED, EITHER THEY WERE TAKEN BY THE PEOPLE
13 SEARCHING YOUR PLACE OR THEY WERE MISPLACED. WOULD YOU AGREE
14 WITH THAT?

15 A YES.

16 Q NOW, IF THEY WERE TAKEN, THE JUDGE WILL HAVE THEM.
17 HE CAN LOOK AT THEM THERE.

18 IS THERE ANY WAY FOR YOU TO DETERMINE WHETHER
19 THERE WERE ANY ITEMS THAT WERE MISPLACED AND HAVE SUBSEQUENTLY
20 TURNED UP, OTHER THAN THE MATERIAL YOU HAVE TOLD US ABOUT?

21 A YES. THE ROOM IS NOT SO LARGE NOR THE NUMBER
22 OF PAPERS SO GREAT THERE, THAT I COULD HAVE OVERLOOKED THOSE
23 PARTICULAR ITEMS.

24 Q SO, WOULD IT BE FAIR TO SAY THAT OF THOSE ITEMS
25 THAT YOU CLAIM WERE DEFENSE EXHIBITS, ALL OF THEM BUT TWO
26 SHOULD BE IN THE BOX THAT THE JUDGE IS GOING TO EXAMINE LATER
27 TODAY?

28 MR. BARENS: OBJECTION. THE DEFENSE HAS NEVER SUGGESTED

1 THAT WE HAVE IN ANY WAY CONCEDED THAT THE MATERIALS WILL BE
2 DELIVERED TO YOUR HONOR. IN FACT, WE DON'T REPRESENT THAT
3 ALL OF THE MATERIALS THAT WERE REMOVED --

4 THE COURT: NO, NO. HE IS TALKING ABOUT SPECIFICALLY
5 THOSE -- THE D.A. IS ASKING SPECIFICALLY ABOUT CERTAIN
6 DOCUMENTS WHICH HE HAS IDENTIFIED AS BEING THE EXHIBITS.
7 IS THAT RIGHT?

8 THEY ARE EXHIBITS WHICH HE SAYS WERE MISSING,
9 EXCEPT FOR TWO.

10 MR. BARENS: EXCUSE ME. MR. WAPNER HAS MADE A STATEMENT
11 TO THE WITNESS THAT IS ASSUMING FACTS NOT IN EVIDENCE. AND
12 THIS IS A FACT NEVER CONCEDED BY THE DEFENSE, THAT IN FACT,
13 THAT THE BOX DELIVERED TO YOUR HONOR FROM THE DEPARTMENT OF
14 JUSTICE, WILL IN FACT, INCLUDE EVERYTHING THEY REMOVED.
15 I DON'T KNOW.

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1 THE COURT: WHETHER IT DOES OR NOT, HE JUST WANTS TO
2 DETERMINE SUPPOSEDLY, WHAT WAS MISSING WHEN HE GOT BACK THERE.
3 IS THAT WHAT YOU ARE TRYING TO DO?

4 MR. WAPNER: YES. I WILL ASK THE QUESTION AGAIN A
5 DIFFERENT WAY, IF YOU WANT.

6 THE COURT: I THINK IT IS PERFECTLY PROPER THE WAY YOU
7 ASKED IT. THE OBJECTION WILL BE OVERRULED. HE MAY ANSWER
8 IT.

9 MR. BARENS: COULD WE HAVE THE QUESTION, YOUR HONOR?

10 THE COURT: YES.

11 MR. WAPNER: I CAN ASK IT AGAIN.

12 THE COURT: GO AHEAD.

13 Q BY MR. WAPNER: MR. HUNT, YOU HAVE GONE OVER THE
14 ROOM SINCE JANUARY THE 8TH, RIGHT?

15 A YES.

16 Q AND SO YOU HAVE DETERMINED THAT ALL OF THOSE
17 ITEMS THAT WERE PREPARED AND WERE ANTICIPATED BY YOU TO BE
18 DEFENSE EXHIBITS, WERE TAKEN FROM THE ROOM EXCEPT FOR TWO,
19 IS THAT CORRECT?

20 A YES.

21 Q AND THAT WHEN WE SAY THEY WERE TAKEN, YOU HAVE
22 SINCE GONE THROUGH THE ROOM AND DETERMINED THAT THEY WERE
23 NOT MISLAID, CORRECT?

24 A YES. THERE WERE SOME THINGS IN THE ROOM THAT
25 I INTENDED TO INCORPORATE IN THAT FILE, BUT HAD NOT YET.

26 Q ALL RIGHT. WE'LL GET TO THAT LATER.

27 A BUT THAT IS A PARTICULAR GROUP OF IDENTIFIED
28 DEFENSE EXHIBITS THAT WERE LABELED AND PUT INTO THE COMPUTER.

1 Q OKAY. OF THAT GROUP, THE ONES THAT ARE NOT THERE,
2 YOU HAVE DETERMINED WERE REMOVED BY THE POLICE AGENCIES THAT
3 WERE THERE, AS OPPOSED TO JUST MISLAID OR TAKEN AWAY EXCEPT
4 FOR TWO --

5 A I HAVE DETERMINED THAT THEY ARE NO LONGER IN THE
6 ROOM.

7 Q YOU KNOW THEY WEREN'T THERE AND --

8 THE COURT: HE DIDN'T ASK YOU THAT. HE DIDN'T ASK YOU
9 THAT. WHEN YOU CAME BACK THERE ON THE 8TH OF JANUARY IN THE
10 AFTERNOON, SPECIFICALLY, THOSE PARTICULAR DOCUMENTS WERE GONE.
11 IS THAT CORRECT?

12 THE WITNESS: YES.

13 THE COURT: ALL RIGHT.

14 Q BY MR. WAPNER: OKAY. THEY HAVE NOT TURNED UP
15 IN THE ROOM SINCE, HAVE THEY?

16 A NO.

17 Q THEY HAVE NOT TURNED UP IN THE KITCHEN OF THE
18 HOUSE SINCE THEN, HAVE THEY?

19 A NO.

20 Q THEY ARE NOT IN THAT HOUSE, ARE THEY?

21 A I DON'T BELIEVE SO.

22 Q ALL RIGHT. IF THEY ARE NOT ON A BOAT IN THE MIDDLE
23 OF THE OCEAN OR IN THE CHERRY PIE, THE POLICE PROBABLY HAVE
24 THEM, RIGHT?

25 MR. BARENS: WELL, YOUR HONOR --

26 MR. WAPNER: I WITHDRAW THAT.

27 MR. BARENS: I DON'T THINK THAT THIS IS REALLY AN
28 OCCASION FOR HUMOR, YOUR HONOR. I THINK IT IS AN OCCASION

1 FOR MORE SERIOUSNESS AND --

2 THE COURT: OCCASIONALLY THERE HAVE BEEN MOMENTS OF
3 HUMOR. GO AHEAD.

4 MR. WAPNER: THANK YOU. ALL RIGHT.

5 Q WERE THERE SOME FILES THAT WERE ON THE FLOOR,
6 PERHAPS NEAR THE FOOT OF THE BED WHEN YOU LEFT THE ROOM IN
7 THE MORNING OF JANUARY 8?

8 A YES. THEY COULD BE MORE ACCURATELY DESCRIBED
9 AS IN FRONT OF THE DESK WITH THE COMPUTER ON IT.

10 Q ON THE FLOOR, HOWEVER?

11 A YES.

12 Q WERE THEY MANILA FILE FOLDERS?

13 A MOST OF THEM WERE, YES.

14 Q ALL RIGHT. AND DID THOSE FILES FOR THE MOST PART,
15 CONTAIN DOCUMENTS THAT WERE PREPARED DURING 1983 AND 1984,
16 DURING THE TIME THE BBC WAS IN OPERATION?

17 A SOME OF THEM WERE FROM THAT PERIOD OF TIME.

18 Q DID ANY OF THEM CONTAIN MATERIALS THAT YOU HAD
19 WRITTEN YOURSELF IN PREPARATION -- WRITTEN YOURSELF FROM THE
20 END OF 1985 UNTIL THE PRESENT?

21 A YES.

22 Q AND WERE THOSE MATERIALS THAT WERE WRITTEN BY
23 YOU FOR WHAT PURPOSE?

24 A THERE WERE A NUMBER OF FILES FROM THE BBC PERIOD
25 OF TIME. THERE WERE ALSO SOME FILES THAT WERE CONTAINED IN
26 ONE OF THE BOXES. THERE WAS A NEW SECTION OF NEW FILES I
27 CREATED IN RESPONSE TO RECENT ISSUES.

28 Q OKAY.

1 A ONE OF THEM --

2 Q LET ME MAKE SURE WE UNDERSTAND EACH OTHER. LET'S
3 FOR THE MOMENT JUST TALK ABOUT THE FILES ON THE FLOOR AT THE
4 FOOT OF THE BED.

5 A THEY ARE ON THE FLOOR AT THE FOOT OF THE DESK.

6 Q HOW MANY OF THOSE FILES IN PERCENTAGE TERMS WOULD
7 YOU SAY CONTAINED MATERIALS THAT WERE WRITTEN OR PREPARED
8 DURING THE TIME OF '83 AND '84, WHEN THE BBC WAS IN OPERATION?

9 A I WOULD SAY 90 PERCENT OF THOSE. IT IS JUST A
10 GUESS, BY VOLUME OF PAPER.

11 Q OKAY. AND OF THE REMAINING 10 PERCENT, WHAT WAS
12 IN THOSE FILES?

13 A MY RECOLLECTION AS TO THE SPECIFIC THINGS IS A
14 LITTLE UNCLEAR. I BELIEVE THAT THERE WAS A FILE -- THERE
15 WAS SOME CORRESPONDENCE FROM JEFFREY MELCZER, A CIVIL
16 ATTORNEY THAT I HAVE.

17 I BELIEVE THAT THERE WAS A FILE WITH SOME
18 CORRESPONDENCE FROM PARKER KELLY, MY ATTORNEY IN SAN FRANCISCO.

19 I BELIEVE THERE WAS A COUPLE OF FILES THAT WERE
20 SPECIFICALLY CREATED WITH BACK-UP INFORMATION ON TOP, CREATED
21 IN THE CASE PENDING IN LOS ANGELES.

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1 Q YOU ARE NOT SURE OF THAT, THOUGH?

2 A NO, I AM NOT ABSOLUTELY SURE.

3 I SEALED SOME OF THE INFORMATION THAT WAS IN
4 THE MORE RECENT FILES.

5 Q DID YOU ACTUALLY SEAL EVERYTHING ELSE THAT WAS
6 IN THAT BEDROOM SINCE THEN?

7 A NO, I DIDN'T.

8 Q WHAT DID YOU SEAL UP?

9 A I SEALED THE REMAINING ITEMS ON THE BED. I SEALED
10 EVERYTHING THAT WAS ON THE DESK, THE TWO DESKS.

11 Q THE REMAINING ITEMS ON THE BED WERE THE REMAINING
12 ITEMS FROM THE CARDBOARD TRAY, IS THAT WHAT YOU ARE SAYING?

13 A THERE WERE A FEW OTHER THINGS THAT WERE ON THE
14 BED.

15 THERE WAS A LARGE FILE THAT CONTAINED RESEARCH
16 ON ONE OF THE MOTIONS.

17 Q IS THAT LEGAL RESEARCH?

18 A LEGAL RESEARCH THAT I CONDUCTED.

19 Q WHEN YOU SAY THAT CONTAINED LEGAL RESEARCH THAT
20 YOU HAD CONDUCTED, DID THAT FILE CONTAIN SUMMARIES OF CASES?

21 A SUMMARIES OF CASES. THERE WAS ALSO A LOT OF
22 MEMOS FROM ARTHUR AND RICHARD ON THE SUBJECT OF THOSE, THOSE
23 MOTIONS, IN THERE.

24 IT WAS MY TOTAL FILE ON THE MOTION THAT CONTAINED
25 EVERYTHING THAT I RECEIVED THAT RELATED TO IT. BOTH THINGS.

26 Q WHICH MOTION?

27 A IT WAS THE MOTION ON CORPUS DELICTI.

28 Q AND DO YOU THINK THAT IT WOULD HAVE BEEN APPARENT,

1 READILY APPARENT TO ANYONE LOOKING AT THAT, THAT IT CONTAINED
2 LEGAL RESEARCH?

3 MR. BARENS: THAT CALLS FOR A CONCLUSION.

4 THE COURT: OVERRULED.

5 THE WITNESS: IT WOULD HAVE BEEN READILY APPARENT THAT
6 PART OF THAT FILE WAS LEGAL RESEARCH.

7 Q BY MR. BARENS: WERE THERE XEROXES OF CASES IN
8 THERE, FOR EXAMPLE?

9 A IT WAS COMPOSED OF SOME TYPEWRITTEN MATERIAL
10 FROM THE OFFICES OF ARTHUR AND RICHARD. IT WAS COMPOSED OF
11 CASES THAT WERE XEROXED. IT WAS COMPOSED OF A LARGE QUANTITY
12 OF LEGAL PAPER WITH WRITING UPON IT.

13 Q THAT WAS ON THE BED, THAT WAS SEALED UP, RIGHT?

14 A THAT WAS ON THE BED.

15 Q DID YOU SEAL THAT UP?

16 A THAT PARTICULAR STACK WAS SO LARGE I DIDN'T SEAL
17 IT.

18 I PUT IT WITH THE MATERIAL THAT WAS SEALED.

19 Q WHAT DID YOU SEAL ON THE BED?

20 A I SEALED ONE OF THE EXHIBITS WITH A YELLOW POST-IT
21 STICKER ON IT, I BELIEVE.

22 THE OTHER WAS TOO BULKY FOR THAT MANILA ENVELOPE
23 AND I JUST PUT IT IN THE BOX.

24 Q WAS THAT THE DEPOSITION YOU REFERRED TO EARLIER?

25 A I THINK I SEALED THE DEPOSITION.

26 I THINK THE THING I DIDN'T SEAL WAS AN OVERSIZED
27 ACCORDION FOLDER THAT DIDN'T QUITE FIT IN.

28 Q AND WHAT OTHER THINGS DID YOU SEAL FROM THE ROOM?

3
1 A FROM THE BED?

2 Q IF THERE WAS ANYTHING ELSE FROM THE BED, YES.

3 A I DON'T RECOLLECT WHETHER THERE WERE OTHER THINGS
4 FROM THE BED THAT WERE SEALED, BUT WE HAVE A COMPLETE NOTATION
5 LIST WHERE THE THINGS WERE FOUND THAT WERE SEALED.

6 THE OTHER THINGS THAT WERE SEALED WERE FROM THE
7 TRASH CAN. WE TOOK EVERYTHING OUT OF THE TRASH CAN, EXCEPT
8 A BANANA PEEL, WHICH WE THREW AWAY, AND SEALED IT.

9 Q WHAT ELSE WAS SEALED?

10 A WE SEALED QUITE A NUMBER OF THINGS THAT WERE
11 ON THE DESK.

12 Q WHAT HAVE YOU DONE WITH THOSE?

13 A I PLACED THEM IN A BOX --

14 WELL, WE PUT THEM IN THE ENVELOPES, THEY WERE
15 SEALED AND THEN I PLACED THEM IN A BOX.

16 Q HOW DID YOU SELECT THE PARTICULAR THINGS THAT
17 YOU WERE GOING TO SEAL AS OPPOSED TO THE ONES YOU WEREN'T?

18 A WELL, I THOUGHT THE ISSUE WOULD BE CLEAR AS IN
19 AREAS WHICH WERE IN THE FIELD OF VISION WERE ALREADY OUT --
20 THERE WAS THE BED AND THE TRASH CAN AND SINCE BOBBY AND LYNNE
21 ROBERTS SAID, INDICATED THEY HAD SEEN DETECTIVES GO THROUGH
22 THAT, I ELECTED TO SEAL THAT.

23 AND OF THE ONES ON THE FLOOR, THE ONES THAT
24 RELATED TO REAL SENSITIVE ISSUES AS FAR AS I WAS CONCERNED,
25 I SEALED THAT.

26 A GREAT MASS OF PAPERS THAT RELATED TO BBC
27 ACTIVITIES, WHICH WERE GENERAL FILES THAT MAY OR MAY NOT HAVE
28 COME INTO PLAY DEPENDING UPON CIRCUMSTANCES AT THE TRIAL,

4
1 I DID NOT SEAL. THEY WERE FAR TOO VOLUMINOUS.

2 Q WHAT DID YOU INTEND TO DO WITH ALL OF THESE
3 ITEMS THAT YOU SEALED?

4 A MY THINKING WAS THAT MY WORD ON SOME OF THESE
5 ISSUES MIGHT NOT MEAN A LOT SINCE I WAS THE DEFENDANT, SO
6 I WANTED TO CREATE A SITUATION WHERE THERE WAS SOME INDEPENDENT
7 DOCUMENTATION OF WHAT WAS IN THEIR LINE OF SIGHT, WHAT THEY
8 SAW BUT DIDN'T TAKE.

9 Q DID YOU BRING THOSE TO COURT WITH YOU?

10 A I HAVE NOT BROUGHT THEM TO COURT YET, UNDER THE
11 INSTRUCTION OF MY ATTORNEY.

12 Q DO THEY REMAIN SEALED?

13 A ABSOLUTELY, THEY DO.
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1 Q INCIDENTALLY, HOW MANY PAGES WERE THERE OF THIS
2 COMPUTER MASTER FILE?

3 A THERE WAS ABOUT 80 SINGLE-SPACED TYPEWRITTEN
4 PAGES OF THE COMPUTER MASTER FILE, BUT THERE WERE SUB-FILES
5 THAT WERE ALSO COMPUTER GENERATED THAT WERE ALSO QUITE LENGTHY.

6 THE COURT: YOU SAY THAT THOSE 80 PAGES WERE MISSING,
7 TOO?

8 THE WITNESS: EXACTLY HOW MANY OF THOSE PAGES ARE
9 MISSING, IT IS DIFFICULT FOR ME TO ASSESS.

10 THE COURT: GIVE US YOUR ESTIMATE AS TO HOW MANY OF
11 THESE PAGES WERE MISSING WHEN YOU GOT BACK THERE?

12 THE WITNESS: THE ONLY THING I CAN SAY WITH ABSOLUTE
13 CERTITUDE, YOUR HONOR, IS THAT THREE OR PERHAPS FOUR OF THOSE
14 PAGES ARE MISSING.

15 BEYOND THAT, I BELIEVE, BUT I AM NOT SURE, THAT
16 PERHAPS AS MANY AS 30 OR 40 OTHER OF THOSE PAGES ARE MISSING.

17 THE COURT: ALL RIGHT. PARDON ME. DID YOU SAY THAT
18 THE ORIGINAL OF THAT HAD BEEN GIVEN TO MR. BARENS OF ALL OF
19 THESE COMPUTER RELATED DOCUMENTS?

20 THE WITNESS: I WOULDN'T USE THE TERM ORIGINAL IN THE
21 SENSE THAT YOU CAN HAVE THE COMPUTER JUST GENERATE MORE AND
22 MORE COPIES.

23 I DON'T THINK IT WAS THE FIRST COPY EVER PRINTED
24 BUT A COPY WAS GIVEN TO HIM ON JANUARY 6TH.

25 THE COURT: AND THAT IS THE ORIGINAL?

26 THE WITNESS: YES, YES, FOR THE PURPOSES OF THE
27 DISCUSSION.

28 MR. BARENS: YOUR HONOR, I CANNOT TELL -- JUST TO BE

1 CLEAR ON THIS POINT BECAUSE YOUR HONOR ASKED IT, I DON'T KNOW
2 WHETHER THE ONE I HAVE GOT IS THE FIRST PRINTING OR THE THIRD
3 PRINTING OR WHATEVER. IT IS A PRINTED DOCUMENT. I DON'T
4 THINK ANYONE CAN IDENTIFY WHETHER IT IS AN ORIGINAL OR A
5 DUPLICATE ORIGINAL. I WANTED TO MAKE SURE --

6 THE COURT: WHETHER THEY ARE ORIGINALS OR COPIES, ONE
7 OF THEM WAS GIVEN TO YOU TWO DAYS BEFORE?

8 MR. BARENS: RIGHT. THERE IS NO DISAGREEMENT ON THAT.

9 THE COURT: SO YOU HAVE IT IN YOUR POSSESSION?

10 MR. BARENS: QUITE SO, YOUR HONOR.

11 THE WITNESS: AND I BELIEVE, YOUR HONOR, TO ANSWER
12 YOUR QUESTION, WITH THE COPY HE HAS, IT HAS A COMPUTER
13 GENERATED DATE ON THE TOP OF IT.

14 Q BY MR. WAPNER: MR. HUNT, THE ENTIRE FILE,
15 HOWEVER, REMAINS IN THE COMPUTER AND CAN BE REPRODUCED AT
16 ANY TIME, CORRECT?

17 A YES.

18 Q DID YOU EVER REPRODUCE THE ENTIRE THING AGAIN
19 AND COMPARE IT WITH WHAT WAS THERE TO DETERMINE WHAT WAS
20 MISSING?

21 A I HAVE REPRODUCED THE FILE SUBSEQUENT TO THAT
22 BUT MY PROBLEM WAS THAT WHEN I WAS PLAYING WITH MY COMPUTER
23 PRINTER, TRYING TO GET IT TO WORK RIGHT, BECAUSE AS I WAS
24 INDICATING, IT WAS JAMMING ON THE PIN FEED, I HAD TO START
25 AND STOP IT SEVERAL TIMES AND THERE WAS SEVERAL PARTIAL PRINTS
26 DONE, AND IT IS MY BELIEF THAT ONE OF THE PARTIAL PRINTS WAS
27 TAKEN. I TRIED TO --

28 THE COURT: WHY DO YOU SAY THAT?

1 THE WITNESS: WELL, I WENT BACK TO THE TRASH CAN AND
2 I WENT BACK THROUGH MY RECOLLECTION AND I TRIED TO MATCH THE
3 REMAINS OF WHAT WAS IN THE TRASH CAN WITH WHAT I HAD IN MY
4 RECOLLECTION AND I BELIEVE THAT SEVERAL SHEETS ARE MISSING
5 FROM THE TRASH CAN THAT SHOULD HAVE BEEN THERE.

6 Q WHEN DID YOU THROW THOSE THINGS AWAY?

7 A IT WAS OVER THE VACATION. THAT HIS HONOR GRANTED
8 US FOR CHRISTMAS AND FOR THE NEW YEAR'S.

9 Q WHEN IN THAT PERIOD?

10 A AS FAR AS TIME LINE INFORMATION ON THAT, ALL
11 I RECOLLECT IS SPENDING CHRISTMAS IN PALM SPRINGS WITH MY
12 FAMILY. THEN COMING BACK TO BEL AIR AND WORKING SEVEN OR EIGHT
13 DAYS AND IT WAS DURING THAT TIME PERIOD THAT THESE RUNS
14 OCCURRED, SO IT WOULD BE TOWARD THE LATTER PART OF THAT PERIOD,
15 AS I HAD DONE A LOT OF INPUTTING OF NOTES AND THINGS THAT
16 HAD BEEN GENERATED WITH RICHARD AND ARTHUR, GENERATED INTO
17 THE COMPUTER IN THE PRELIMINARY PART OF IT.

18 Q WHEN WAS THIS, BEFORE?

19 A BEFORE THE SEIZURE.

20 Q HOW MANY DAYS OR WEEKS?

21 A I WOULD SAY, JANUARY 8TH, IT WOULD BE APPROXIMATELY
22 A WEEK BEFORE.

23 Q THEY STAYED IN THE TRASH CAN FOR A WEEK?

24 A YES.

25 I MAKE A PRACTICE OF NOT THROWING MY TRASH OUT
26 IN THE ROBERTS TRASH CAN THAT BEARS ON LEGAL ISSUES. I USUALLY
27 TAKE IT TO ANOTHER LOCATION OR I TAKE IT TO MY ATTORNEY'S
28 OFFICE AND THROW IT OUT.

1 I AM A LITTLE PARANOID WITH RESPECT TO THAT STUFF.

2 Q YOU MAKE A PRACTICE OF TRYING TO REMEMBER WHAT
3 IS IN YOUR TRASH?

4 A NO.

5 I JUST HAVE A MIND LIKE, PERHAPS YOU DO, MR.
6 WAPNER, WHICH REMEMBERS THINGS THAT OCCUR IN MY LIFE.

7 Q WHEN YOU SAY YOU SPENT YOUR CHRISTMAS IN PALM
8 SPRINGS WITH YOUR FAMILY, IS THAT THE ROBERTS FAMILY?

9 A YES.

10 Q THE FACT IS, YOU DNO'T REALLY REMEMBER WHAT WAS
11 IN THE TRASH CAN AND WHAT WASN'T, DO YOU?

12 A I AM QUITE CERTAIN, AS I INDICATED, THAT THREE
13 OR FOUR PAGES -- I DON'T REMEMBER EXACTLY AT WHAT POINT THE
14 COMPUTER PRINTING WAS INTERRUPTED BY THE PIN FEED PROBLEM --
15 ARE MISSING AND I BELIEVE THAT, BUT I CANNOT SAY WITH ANY
16 CERTAINTY, THAT THERE WERE 30 OR 40, IT WAS A FAIRLY LONG
17 RUN, 30 OR 40 PAGES ARE MISSING, I BELIEVE.

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1 Q WOULD ALL OF THOSE HAVE BEEN ATTACHED TO EACH
2 OTHER AS THEY CAME OUT OF THE COMPUTER?

3 A YES. THEY HAD NOT BEEN SEPARATED.

4 MR. WAPNER: YOUR HONOR, I HAVE A LITTLE BIT MORE.
5 MAY WE DO IT AFTER LUNCH? MAYBE WE SHOULD BREAK.

6 THE COURT: ALL RIGHT. WE'LL TAKE A RECESS NOW UNTIL
7 1:30 THIS AFTERNOON.

8 IS THERE ANYBODY HERE FROM THE ATTORNEY GENERAL'S
9 OFFICE?

10 (AT 12:04 P.M. ADJOURNMENT WAS TAKEN UNTIL
11 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; THURSDAY, JANUARY 29, 1987; 1:55 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE)
4

5 THE CLERK: MR. HUNT, I BELIEVE, WAS ON THE STAND.
6

7 JOSEPH HUNT,
8 THE DEFENDANT HEREIN, HAVING BEEN CALLED AS A WITNESS IN HIS
9 OWN BEHALF, HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND
10 AND TESTIFIED FURTHER AS FOLLOWS:

11 THE COURT: THE RECORD WILL INDICATE THE PRESENCE OF
12 DEFENDANT AND COUNSEL.

13 YOU MAY PROCEED.

14 MR. WAPNER: THANK YOU, YOUR HONOR.
15

16 EXAMINATION

17 BY MR. WAPNER:

18 Q MR. HUNT, AFTER THIS SEARCH WAS CONDUCTED, YOU
19 WERE PRESENT IN COURT EVERY DAY OF THE PROCEEDINGS; IS THAT
20 RIGHT?

21 A YES, I WAS, MR. WAPNER.

22 Q YOU WERE FAIRLY AWARE OF THE HUBBUB THAT ALL OF
23 THIS CREATED, WEREN'T YOU?

24 A YES.

25 Q WHAT DID YOU THINK THE LIKELIHOOD WAS THAT YOUR
26 PLACE WAS GOING TO BE SEARCHED AGAIN ANY TIME SOON?

27 A I THOUGHT IT HIGHLY LIKELY.
28

1 Q WHY?

2 A BASED UPON THE FACT THAT I FELT THERE WASN'T
3 PROBABLE CAUSE FOR THE FIRST ONE, I THOUGHT IT WAS APPARENT
4 THAT THE PLACE COULD BE SEARCHED AT ANY TIME.

5 Q WELL, WHAT WAS THE BASIS FOR THAT, THOUGH?

6 A MY BASIS WAS MY PERSONAL KNOWLEDGE ABOUT THE
7 FACTS AND THINGS STATED IN MR. BREILING'S AFFIDAVIT, THAT
8 THEY DIDN'T ADD UP TO PROBABLE CAUSE.

9 Q WELL, BE THAT AS IT MAY --

10 A SO MY PERSONAL CONCLUSION WAS THAT IT WAS NOT
11 REALLY NECESSARY TO GET PROBABLE CAUSE TO SEARCH MY PLACE
12 AT ANY TIME.

13 Q PUTTING ALL THAT ASIDE --

14 MR. BARENS: OBJECTION. YOU CAN'T PUT ALL THAT ASIDE.

15 MR. WAPNER: WELL, --

16 MR. BARENS: I DON'T THINK HE CAN PUT IT ALL ASIDE.

17 MR. WAPNER: IS THAT A LEGAL OBJECTION?

18 MR. BARENS: YES. I OBJECT TO THE QUESTION AS MISLEADING.

19 THE COURT: OVERRULED.

20 Q BY MR. WAPNER: MR. HUNT, PUTTING ALL OF THAT
21 STUFF ASIDE FOR A SECOND, WHAT I AM ASKING YOU IS, AS A
22 PRACTICAL OR TACTICAL MATTER, WHAT DO YOU REALLY THINK THE
23 LIKELIHOOD WAS, CONSIDERING EVERYTHING YOU KNOW ABOUT THIS
24 CASE AND ALL OF THE PUBLICITY THAT THE CASE HAS GENERATED
25 AND THE PUBLICITY OF THE SEARCH GENERATED, THAT YOUR PLACE
26 WAS ACTUALLY GOING TO BE SEARCHED AGAIN AFTER THIS?

27 A I THINK IT IS AND CONTINUE TO THINK THAT IT IS
28 QUITE LIKELY. THE POLICE FROM THREE DIFFERENT JURISDICTIONS

1 WERE THERE.

2 CERTAINLY, THERE WASN'T PROBABLE CAUSE IN TWO
3 OF THE JURISDICTIONS, IF THERE WAS IN THE THIRD. IT SEEMS
4 TO ME THAT THE WHOLE THING INDICATED THAT NONE OF THOSE
5 PRIVILEGES AND IMMUNITIES UPON WHICH I HAVE BEEN RELYING,
6 MEANT ANYTHING IN THE FACE OF THESE AGENCIES' DESIRES TO
7 ACCESS MY BEDROOM.

8 Q AND AS A RESULT OF THAT, WHAT EFFECT HAS IT HAD
9 ON THE WORK THAT YOU HAVE DONE ON THE CASE?

10 A WELL, FOR QUITE SOME TIME AFTER THAT, I DIDN'T
11 REALLY WANT TO START WORK. I FOUND MYSELF TO BE QUITE
12 LISTLESS AND I HAD A VERY DIFFICULT TIME READDRESSING SOME
13 OF THE ISSUES THAT WERE REMAINING TO BE DEALT WITH IN THE
14 CASE.

15 Q BECAUSE YOU THOUGHT THE POLICE WERE GOING TO
16 COME BARGING INTO YOUR HOUSE?

17 A I WAS TALKING ABOUT HOW I FELT AFTERWARDS, MY
18 PSYCHOLOGICAL STATE OF MIND.

19 Q WELL, HAVE YOU STARTED AGAIN WORKING ON THE CASE?

20 A WELL, I HAVE BEEN WORKING A LOT ON THIS PARTICULAR
21 ASPECT. BUT AS FAR AS READDRESSING SOME OF THE THINGS THAT
22 I HAD BEEN ASSIGNED TO DO BY MY ATTORNEYS, MR. WAPNER, I HAVE
23 HAD A VERY DIFFICULT TIME COMING BACK TO THAT.

24 Q AT SOME OF THE BAIL HEARINGS IN THIS CASE, IT
25 WAS INDICATED THAT YOU WOULD WORK FIVE TO SEVEN DAYS A WEEK
26 AT YOUR LAWYER'S OFFICE IN THE PREPARATION OF THIS CASE. DID
27 YOU EVER DO THAT?

28 A NO. I HAVE BEEN WORKING AT VARIOUS LOCATIONS

1 ON MY CASE. SOMETIMES I GO TO MY LAWYER'S OFFICE TO DO SO.
2 SOMETIMES I GO TO THE LIBRARY.

3 I VERY FREQUENTLY STAY AT HOME, WHERE I HAVE
4 SET UP THE FACILITIES SO THAT I CAN WORK THERE.

5 Q AND YOU WERE IN COURT WHEN THE SUGGESTION --
6 STRIKE THAT.

7 WERE YOU IN COURT WHEN THE SUGGESTION WAS MADE
8 THAT YOU SHOULD BE GRANTED PRO PER STATUS SO THAT YOUR HOUSE
9 COULD HAVE THE SANCTITY OF A LAW OFFICE AND THEREFORE, A
10 MASTER SHOULD BE OBTAINED?

11 A YES I WAS, MR. WAPNER.

12 Q AND DID YOU REALIZE THEN THAT IF YOUR HOUSE HAD
13 HAD THE STATUS OF A LAW OFFICE, THEY MIGHT HAVE NEEDED SOME
14 KIND OF A MASTER?

15 MR. BARENS: YOUR HONOR, OBJECTION, CALLING FOR A LEGAL
16 CONCLUSION.

17 THE COURT: HE IS QUALIFIED, WITH ALL OF THE RESEARCH
18 THAT HE HAS DONE ON THE SUBJECT. I WILL PERMIT IT.

19 MR. BARENS: I HAVE NOT HEARD THAT HE DID ANY RESEARCH
20 ON THIS SUBJECT AT ALL OR THAT IT WAS EVER RAISED.

21 MR. WAPNER: I WILL REPHRASE IT.
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1 Q MR. HUNT, SINCE THIS HAPPENED, DID YOU REALIZE
2 THAT IF THE PLACE WHERE ALL OF THESE MATERIALS ARE KEPT IS
3 IN FACT A LAW OFFICE, THAT DIFFERENT PROCEDURES WOULD BE
4 REQUIRED FOR A SEIZURE OF THEM?

5 MR. BARENS: YOUR HONOR, I AM GOING TO OBJECT NOW, YOUR
6 HONOR, AS BEING IRRELEVANT.

7 THE ONLY QUESTION THAT IS RELEVANT IS WHETHER
8 HE HAD SOME KNOWLEDGE AT THE TIME.

9 THE COURT: ALL RIGHT. I WILL SUSTAIN THAT OBJECTION.

10 MR. BARENS: AT THE TIME THE ISSUE --

11 THE COURT: I AM NOT OVERRULING IT. I SUSTAINED THE
12 OBJECTION. IF YOU CONTINUE TO TALK, I MIGHT OVERRULE IT.

13 MR. BARENS: IF YOU PLEASE, I WILL RECONSIDER IT.
14 THANK YOU, YOUR HONOR.

15 Q BY MR. WAPNER: MR. HUNT, HAVE YOU DONE ANYTHING
16 SINCE THAT HAPPENED TO SAFEGUARD THESE MATERIALS, SUCH AS
17 PUTTING THEM IN YOUR LAWYER'S OFFICE, SO IN THE EVENT THERE
18 WAS ANOTHER SEARCH, YOU WOULD HAVE MORE PROTECTION THAN YOU
19 HAD THE LAST TIME?

20 A I HAVE DONE SEVERAL THINGS.

21 ONE I HAVE MENTIONED ALREADY, WHICH WAS I SEALED
22 A LOT OF INFORMATION THERE. I HAVEN'T PRINTED ANOTHER COPY
23 FROM MY COMPUTER. BEYOND THAT, I HAVEN'T TAKEN ANY OTHER
24 PROPHYLACTIC MEASURES, NO.

25 THE COURT: WELL, SUPPOSE THE COURT ASSURES YOU THAT
26 YOU WON'T BE INTERRUPTED AGAIN IN CONNECTION WITH YOUR
27 ACTIVITIES AT YOUR HOME AND I WILL DIRECT THE DISTRICT ATTORNEY
28 AND ANY PROSECUTING AGENCY HERE NOT TO DO SO AND GET THE

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1 CONSENT OF THE ATTORNEY GENERAL SO THAT IN THE MATTER IN
2 SAN MATEO COUNTY YOU WON'T BE INTERRUPTED ANY MORE, WILL YOU
3 CONTINUE TO DO THE WORK AT YOUR HOME?

4 THE WITNESS: WELL, I DEEPLY APPRECIATE YOUR HONOR MAKING
5 THAT RULING. HOWEVER --

6 THE COURT: WOULD THAT INTERFERE -- WITH THAT RULING,
7 WOULD YOU BE ABLE TO CONTINUE DOING THE WORK AT HOME AND
8 PREPARE YOURSELF FOR THE TRIAL?

9 THE WITNESS: AS I SAID, I DEEPLY APPRECIATE THAT RULING,
10 YOUR HONOR, AND THAT CONSIDERATION.

11 HOWEVER, MY OWN THOUGHT PROCESS IS SINCE THEY
12 CONSCIOUSLY AND WILLFULLY EVADED YOU AND MR. WAPNER THE FIRST
13 TIME, THAT THEY VERY WELL DON'T CONSIDER WHAT YOU THINK.

14 THE COURT: YOU SAID BY REASON OF THE FACT THAT YOU
15 FEAR A REPETITION OF WHAT HAD OCCURRED --

16 THE WITNESS: YES.

17 THE COURT: -- THAT THIS IS THE REASON YOU ARE NOT
18 INCLINED TO DO ANYTHING OR DO ANY PREPARATION AT HOME. I
19 WANT TO ASSURE YOU THAT THAT WILL NOT HAPPEN. THERE WON'T
20 BE ANY INTERFERENCE FOR ANY SEARCH WARRANT ISSUED EITHER IN
21 THIS JURISDICTION OR IN THE JURISDICTION UP IN SAN MATEO
22 COUNTY. COULD YOU RESUME YOUR ACTIVITIES WITHOUT
23 INTERRUPTION AND WITHOUT FEAR OF ANY INTERFERENCE?

24 THE WITNESS: I WOULD HAVE TO -- IT IS KIND OF A COMPLEX
25 ISSUE AND I WOULD HAVE TO THINK ABOUT IT.

26 I DO APPRECIATE IT.

27 THE COURT: ALL RIGHT, YOU DO THINK ABOUT IT.

28 GO AHEAD.

3-3
1 Q BY MR. WAPNER: BEFORE YOU TESTIFIED ABOUT THIS
2 ISSUE OF THE EFFECT THAT THE SEARCH HAD ON YOU, YOU HAD READ
3 IN FACT THE BARBER CASE, RIGHT?

4 A YES.

5 Q AND YOU REALIZE THE SIGNIFICANCE OF TESTIFYING,
6 THAT THE FACT THEY DID THIS SEARCH HAS SOME EFFECT ON YOUR
7 FUTURE ABILITY TO PREPARE THE CASE, DON'T YOU?

8 A YES, I DO.

9 THE COURT: HE WANTS TO KNOW, IS THAT THE REASON YOU
10 SAY YOU ARE NOT ABLE TO DO THE WORK, BECAUSE YOU READ THE
11 BARBER CASE AND THERE MIGHT BE A HOLDING THAT YOU ARE
12 PREJUDICED IN CONNECTION WITH YOUR DEFENSE?

13 MR. BARENS: IF I MIGHT, YOUR HONOR --

14 MR. WAPNER: I WILL LET THE COURT DRAW THAT CONCLUSION.

15 THE WITNESS: MAY I ANSWER THAT?

16 MR. BARENS: YOUR HONOR, JUST A MOMENT. I MIGHT LIKE
17 TO ADDRESS THE SAME POINT SO THAT WE HAVE SOME --

18 THE COURT: ON REBUTTAL, YOU WILL HAVE THE RIGHT TO
19 DO THAT.

20 MR. BARENS: MY POINT IS --

21 THE COURT: HE HASN'T FINISHED. WAIT UNTIL HE FINISHES
22 AND THEN YOU CAN ASK QUESTIONS ON REBUTTAL.

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1 MR. BARENS: I BELIEVE HE HAS YET TO RESPOND TO THE
2 QUESTION.

3 THE COURT: ALL RIGHT. WILL YOU PROCEED, PLEASE?

4 MR. BARENS: NOW I HAVE AN OBJECTION TO THE QUESTION.

5 THE COURT: WELL, THERE IS NO QUESTION PENDING.

6 MR. BARENS: ALL RIGHT. LET'S SEE IF THERE IS A
7 QUESTION.

8 THE COURT: IS THERE A QUESTION PENDING?

9 (THE RECORD WAS READ BY THE REPORTER.)

10 THE COURT: AND THERE WAS NO ANSWER GIVEN. YOU HAVE
11 AN OBJECTION?

12 MR. BARENS: NO.

13 THE COURT: OVERRULED. YOU MAY ANSWER.

14 THE WITNESS: FROM MY READING OF THE BARBER CASE, WHAT
15 CHIEF JUSTICE ROSE BIRD WAS SAYING IS THAT NO SHOWING OF
16 ACTUAL PREJUDICE WAS MADE BY THE DEFENDANT IN THAT CASE AND
17 THAT THERE WAS NO TESTIMONY ABOUT THE FACT THAT HE WAS
18 CHILLED OR NOT CHILLED AND, THAT, THEREFORE, WHATEVER MY STATE
19 OF MIND HERE, CHIEF JUSTICE ROSE BIRD WAS ONLY TALKING ABOUT
20 THE FACT THAT WHEN YOU HAVE THE INCURSION OF CONSTITUTIONALLY
21 PROTECTED AREAS -- WHEN YOU HAVE AN INCURSION INTO
22 CONSTITUTIONALLY PROTECTED AREAS SUCH AS PRIVACY OF THE
23 FIFTH AMENDMENT, CLIENT-ATTORNEY PRIVILEGE, THINGS LIKE THAT,
24 IT DOES NOT SO MUCH MATTER WHAT THE ACTUAL STATE OF MIND OF
25 THE DEFENDANT WAS, THE LAW SEEKS TO PROTECT AGAINST SOME
26 REASONABLE CONCLUSIONS THAT THE DEFENDANT IN THOSE SITUATIONS
27 MIGHT COME TO AND THAT OTHER DEFENDANTS, NOT EVEN IN THE
28 COURTROOM, MIGHT NOT COME TO.

1 THE COURT: YOU SEE WHAT I MEAN BY YOUR NOT NEEDING
2 ANY ASSOCIATE COUNSEL?

3 MR. BARENS: OH, MR. HUNT IS COMING RIGHT ALONG, YOUR
4 HONOR.

5 THE COURT: I NOTICE. I NOTICE.

6 THE WITNESS: AND THAT, THEREFORE, I FELT THAT MY
7 TESTIMONY WITH RESPECT TO THOSE ISSUES WAS NOT GOING TO BE
8 DETERMINATIVE ON THIS ISSUE ANYHOW AND I WASN'T TESTIFYING
9 TO TRY TO INFLUENCE THE DETERMINATION.

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1 MR. BARENS: I CERTAINLY THINK THAT ANSWERS THE
2 QUESTION.

3 THE COURT: I KNOW YOU DO.

4 Q BY MR. WAPNER: DID YOU MAKE COPIES OF THINGS
5 THAT YOU SEALED UP BEFORE YOU SEALED THEM?

6 A NO I DIDN'T.

7 Q ARE THOSE THINGS THAT YOU WERE GOING TO USE IN
8 THE PREPARATION OF YOUR DEFENSE IN THIS CASE?

9 A WELL, QUITE A NUMBER OF THINGS WERE GENERATED
10 BY THE COMPUTER. I STILL HAVE THE COMPUTER.

11 SO I CAN REGENERATE THEM, IF I NEED TO.

12 QUITE A NUMBER OF THINGS WERE PAPERS WHICH I --
13 FROM WHICH I HAD TAKEN THE NOTES I HAD MADE AND PUT THEM INTO
14 THE COMPUTER.

15 SO, HAVING A COMPUTER RECORD OF THOSE THINGS,
16 I DIDN'T NEED THEM.

17 THERE WERE A FEW THINGS WHICH I DID NOT INCLUDE
18 IN THE SEALED DOCUMENTS ON EXACTLY THIS ISSUE, WHICH I HAD
19 NOT REVIEWED THEM, TO TRANSFER THEM INTO THE COMPUTER.

20 SO, I DIDN'T SEAL THOSE ISSUES.

21 THE COURT: I DON'T UNDERSTAND. YOU MEAN THINGS THAT
22 YOU SEALED UP, YOU ARE NOT GOING TO USE ANYMORE IN CONNECTION
23 WITH YOUR TRIAL HERE?

24 THE WITNESS: NO.

25 THE COURT: WHY NOT?

26 THE WITNESS: WHAT I SAID WAS THAT THERE WERE COMPUTER
27 PRINTOUTS WHICH I SEALED. I COULD ALWAYS GET ANOTHER COPY
28 OF THEM BECAUSE THEY EXISTED IN THE MEMORY OF THE COMPUTER.

1 SO I DIDN'T HAVE THAT PARTICULAR COPY. I DIDN'T
2 HAVE TO SEE THE COPY BEFORE I SEALED THEM.

3 AND THERE WERE OTHER THINGS I HAD ALREADY
4 TRANSFERRED ONTO THE COMPUTER.

5 MR. WAPNER: NOTHING FURTHER.

6 THE COURT: YOU MAY EXAMINE.

7 MR. BARENS: NO, YOUR HONOR.

8 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. THANK YOU.

9 MR. BARENS: YOUR HONOR, IN SPEAKING WITH MR. WAPNER,
10 I BELIEVE THERE IS ANOTHER OF THE POLICE PEOPLE WITNESSES --

11 THE COURT: THAT YOU WANTED TO HAVE?

12 MR. BARENS: WE ASKED THAT THEY ALL BE PRODUCED. MR.
13 WAPNER IS GOING TO PROCEED WITH HIM IN THE FORMAT THAT WE
14 HAD YESTERDAY AND THE DAY BEFORE.

15 BUT WE WILL FINISH WITH HIM AND THEN GO BACK
16 TO OUR WITNESSES.

17 THE COURT: ALL RIGHT. IS THAT ALL RIGHT WITH YOU,
18 MR. WAPNER?

19 MR. WAPNER: NO OBJECTION.

20 THE COURT: ALL RIGHT. CALL THE WITNESS.

21 MR. WAPNER: WE CALL AGENT TULLENERS.

22
23 PAUL TULLENERS,
24 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
25 AS FOLLOWS:

26 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
27 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
28 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,

1 SO HELP YOU GOD.

2 THE WITNESS: I DO.

3 THE CLERK: TAKE THE STAND. STATE AND SPELL YOUR NAME
4 FOR THE RECORD.

5 THE WITNESS: PAUL TULLENERS, T-U-L-L-E-N-E-R-S.
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7 EXAMINATION

8 BY MR. WAPNER:

9 Q BY WHOM ARE YOU EMPLOYED?

10 A THE CALIFORNIA DEPARTMENT OF JUSTICE, WHICH IS
11 THE OFFICE OF THE ATTORNEY GENERAL.

12 Q WHAT IS YOUR JOB WITH THEM?

13 A I AM A SPECIAL AGENT ATTACHED TO THE SPECIAL
14 PROSECUTIONS UNIT, BASED IN LOS ANGELES.

15 Q HOW LONG HAVE YOU WORKED FOR THE DEPARTMENT OF
16 JUSTICE?

17 A I STARTED WITH THE DEPARTMENT OF JUSTICE IN JULY,
18 1973. SO IT IS ALMOST 13½, 14 YEARS.

19 Q WHAT DID YOU DO BEFORE THAT?

20 A I WAS A PATROL SERGEANT, DETECTIVE, MOTOR OFFICER,
21 PATROL OFFICER WITH THE CITY OF ARCADIA.

22 Q HOW LONG HAVE YOU BEEN A LAW ENFORCEMENT OFFICER
23 ALTOGETHER?

24 A TWENTY-TWO YEARS AT THE END OF THIS MONTH.

25 Q JANUARY THE 8TH, 1987, DID YOU PARTICIPATE IN
26 THE SEARCH OF A RESIDENCE LOCATED AT 10984 BELLAGIO ROAD,
27 CITY AND COUNTY OF LOS ANGELES?

28 A YES, SIR, I DID.

1 Q WHO WAS THE AGENT IN CHARGE OF THAT SEARCH?

2 A SPECIAL AGENT OSCAR BREILING.

3 Q BEFORE YOU WENT TO THAT LOCATION TO DO THE SEARCH,
4 DID YOU GET A BRIEF FROM SPECIAL AGENT BREILING?

5 A YES, I DID.

6 Q WAS THAT AT THE BEVERLY HILLS POLICE DEPARTMENT?

7 A YES, IT WAS.

8 Q DID OSCAR BREILING PROVIDE YOU WITH A COPY OF
9 THE SEARCH WARRANT?

10 A YES, HE DID.

11 Q DID YOU READ IT?

12 A YES, I DID.

13 Q DID HE PROVIDE YOU WITH A FORM TO SIGN,
14 ACKNOWLEDGING THAT YOU HAD READ AND UNDERSTOOD THE SEARCH
15 WARRANT?

16 A THAT'S CORRECT.

17 Q DID YOU SIGN IT?

18 A YES, I DID.

19 Q DID AGENT BREILING GIVE YOU ANY WARNINGS ABOUT
20 WHAT YOU WERE TO DO OR NOT TO DO AT THE LOCATION?

21 MR. BARENS: OBJECTION, LEADING.

22 THE COURT: OVERRULED.

23 THE WITNESS: YES, HE DID.

24 Q BY MR. WAPNER: WHAT DID HE SAY?

25 A WELL, JUST THE NORMAL SEARCH WARRANT PROCEDURES
26 ABOUT SECURITY, MAINTAINING IT AND CONTROLLING IT.

27 BUT SPECIFICALLY IN THIS CASE, HE TOLD US THAT
28 THE GENTLEMAN WHO WAS NAMED IN THIS SEARCH WARRANT AND WHOSE

1 PREMISES WE WERE GOING TO SEARCH, A MR. HUNT, WAS THE DEFENDANT
2 IN ANOTHER CASE.

3 Q AND WITH RESPECT TO THAT, WHAT DID HE SAY?

4 A AND THERE MIGHT BE DOCUMENTS, PAPERS, MATERIALS
5 RELATED TO THAT CASE AMONG HIS POSSESSIONS THAT WE WERE TO
6 SEARCH, FOR THE ITEMS SPELLED OUT IN THE SEARCH WARRANT AND
7 THAT WE WERE TO -- IF WE SAW THOSE, WE WERE TO IGNORE THEM.

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1 Q AND WHEN YOU WENT TO THE HOUSE -- WELL, I TAKE
2 THAT BACK.

3 WERE YOU ASSIGNED TO GO TO A PARTICULAR PART
4 OF THE HOUSE DURING THE BRIEFING?

5 A YES, SIR. I WAS.

6 Q WHERE WERE YOU TO GO?

7 A I WAS ASSIGNED TO THE MAIN HOUSE ITSELF.

8 Q AND WHEN YOU GOT TO THE LOCATION, DID YOU GO
9 TO THE MAIN HOUSE?

10 A YES, I DID.

11 Q WHO ENTERED THE HOUSE FIRST, IF YOU KNOW?

12 A I AM NOT SURE IF IT WAS MYSELF OR MR. BREILING
13 OR ONE OF THE L.A. POLICE OFFICERS THAT WERE THERE.

14 I BELIEVE THAT THERE WERE FOUR OR FIVE OF US
15 THAT WERE AT THE KITCHEN DOOR TO THE HOUSE.

16 Q AFTER BEING ADMITTED, WHAT PORTION OF THE HOUSE
17 DID YOU GO TO?

18 A WELL, INITIALLY WE WAITED IN THE KITCHEN AREA
19 WHILE THE MAID MADE A TELEPHONE CALL TO THE OWNER OF THE HOME
20 UPSTAIRS, WHO SHE SAID WAS STILL IN BED.

21 WE WAITED UNTIL THEY SPOKE TO HIM AND TOLD HIM
22 WHO WE WERE AND THAT WE WERE THERE ON A SEARCH.

23 AND THEN HE CAME DOWN AND MET US. WE THEN WALKED
24 UPSTAIRS WHILE HE WOKE UP HIS WIFE AND BASICALLY I REMAINED
25 UPSTAIRS IN THE COMMON HALLWAY OUTSIDE HIS BEDROOM AND NEVER
26 ENTERED HIS BEDROOM.

27 Q AFTER BEING IN THAT COMMON HALLWAY, WHAT DID
28 YOU DO?

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1 A I REMAINED THERE FOR PROBABLY ALMOST THE ENTIRE
2 PORTION OF THE SEARCH UNTIL WE LEFT. YOU HAVE TO GO DOWN
3 A SET OF STAIRS RIGHT THERE FROM THAT LITTLE HALLWAY AND THEN
4 WALK THROUGH THE MAIN PART OF THE HOUSE TO GET BACK TO THE
5 KITCHEN DOOR TO EXIT. THOSE ARE THE ONLY AREAS OF THE HOUSE
6 THAT I WAS IN.

7 Q DID YOU GO INTO ANY OF THE ROOMS UPSTAIRS?

8 A TWO OF THE ROOMS OFF THAT LITTLE HALLWAY, YES,
9 SIR.

10 Q DID YOU GO INTO THE ROOM THAT HAD A COMPUTER
11 IN IT?

12 A YES, I DID.

13 Q WHEN YOU WENT INTO THAT ROOM, WHO WAS IN THERE?

14 A MYSELF, A LOS ANGELES POLICE DEPARTMENT OFFICER
15 BY THE NAME OF ROZZI AND AN EVIDENCE TECHNICIAN FROM THE
16 BEVERLY HILLS POLICE DEPARTMENT AND AT VARIOUS TIMES, SPECIAL
17 AGENT BREILING AND THEN THIS GENTLEMAN OVER HERE, MR. CHIER,
18 I BELIEVE HIS NAME IS.

19 THE COURT: CHIER?

20 THE WITNESS: CHIER, SORRY. HE WAS THERE FOR A PERIOD
21 OF TIME.

22 THERE WAS A YOUNG GAL THAT WAS IDENTIFIED AS
23 THE DAUGHTER OF THE OWNER, A GAL BY THE NAME OF BROOKE
24 ROBERTS.

25 THERE MIGHT HAVE BEEN SOME OTHER PEOPLE. I DON'T
26 KNOW IF MRS. ROBERTS WAS IN THERE BRIEFLY.

27 Q BY MR. WAPNER: WAS MR. CHIER IN THERE WHEN YOU
28 FIRST WENT INTO THE ROOM?

29 A NO, HE WAS NOT. HE WAS NOT ON THE PREMISES.

1 Q AND DID YOU SEIZE ANY DOCUMENTS FROM THAT
2 LOCATION?

3 A I PERSONALLY DID NOT SEIZE ANY DOCUMENTS, NO,
4 SIR.

5 Q DID YOU PUT ASIDE ANY DOCUMENTS AND CALL SOMEONE'S
6 ATTENTION TO THEM FOR THE PURPOSE OF HAVING THEM SEIZED?

7 A I POINTED OUT SOME ITEMS TO SPECIAL AGENT
8 BREILING TO ASK HIM TO REVIEW THEM TO SEE IF THEY WERE
9 RELEVANT TO THE SEARCH WARRANT.

10 Q AND WHAT WERE THEY?

11 A THERE MIGHT HAVE BEEN SOME FILES MARKED BBC BUT
12 I CAN'T BE SURE. I EITHER DEFERRED THEM TO DETECTIVE ROZZI
13 OR TO SPECIAL AGENT BREILING.

14 THE ONLY ITEM I REMEMBER SPECIFICALLY WAS A PIECE
15 OF PAPER THAT I SAW LAYING ON THE BOOK SHELF OR A SMALL SHELF
16 IN WHAT I PRESUMED WAS MR. HUNT'S BEDROOM.

17 Q AND WHAT DREW YOUR ATTENTION TO THAT PIECE OF
18 PAPER?

19 A THE ITEMS WRITTEN ON THE FACE OF IT.

20 Q WHAT DID IT SAY?

21 A WELL, THE TWO WORDS THAT CAUGHT MY ATTENTION WAS
22 THE NAME "PITTMAN" AT THE VERY TOP, WHICH STRUCK A CHORD
23 BECAUSE I JUST REMEMBERED THAT NAME THAT MORNING IN THE SEARCH
24 WARRANT. OTHER THAN THAT, IT WOULD HAVE MEANT NOTHING TO
25 ME.

26 AND THE SECOND THING WAS THE PHRASE "PLANTING
27 SNITCHES," WHICH BOTHERED ME WHEN I READ IT.

28 Q WHY DID IT BOTHER YOU?

1 A WELL, IN MY BUSINESS, THAT MEANS TO KILL SOMEBODY,
2 TO KILL AN INFORMANT.

3 Q COULD YOU EXPLAIN THAT, PLEASE.

4 A WELL, I HAVE DONE A NUMBER OF HOMICIDE CASES OVER
5 THE YEARS, CONTRACT CASES, MURDER FOR HIRES, MULTIPLE
6 HOMICIDES, AND IN MY EXPERIENCE IN HAVING LOST INFORMANTS
7 WHO HAVE BEEN KILLED, THAT IS EXACTLY WHAT IT MEANS: IF YOU
8 ARE A DEFENDANT IN A CASE OR IF YOU ARE ABOUT TO BE CHARGED
9 WITH A CASE AND THE POLICE OBVIOUSLY HAVE AN INFORMANT, YOU
10 ELIMINATE THAT WITNESS OR THAT INFORMANT BY KILLING HIM, AND
11 OVER THE YEARS IT HAS BEEN, YOU KNOW, THEY PLANT THEM IN THE
12 DESERT, PLANT THEM IN THE GROUND AND THAT IS WHAT THAT
13 PHRASE "PLANTING SNITCHES" MEANT TO ME.

14 Q WHEN YOU SAW THAT PIECE OF PAPER WITH THAT PHRASE
15 ON IT, WHAT DID YOU DO?

16 A WELL, I DIDN'T TAKE IT BECAUSE IT HAD A DATE ON
17 IT WHICH DIDN'T FALL WITHIN THE AREA THAT BREILING WAS
18 CONCERNED WITH.

19 BUT BECAUSE OF CERTAIN OTHER THINGS WRITTEN ON
20 THERE, WHICH I CAN'T RECALL ANY OF THEM, I CALLED BREILING,
21 AGENT BREILING'S ATTENTION AND POINTED IT OUT TO HIM. HE
22 EXAMINED IT AND HE DIDN'T SEIZE IT AS EVIDENCE.

23 Q OTHER THAN THAT, DO YOU RECALL THE SPECIFIC CONTENTS
24 OF ANY OF THE DOCUMENTS THAT YOU PUT ASIDE TO HAVE AGENT
25 BREILING LOOK AT?

26 A IT WOULD JUST BE A VAGUE RECOLLECTION OF A LOT
27 OF THINGS THAT I LOOKED AT THAT HAD TO DO WITH CORPORATION
28 SEAL, CORPORATION PAPER, CORPORATION STATE DOCUMENTS, TO DO

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1 WITH CORPORATIONS AND THE ONLY ONE THAT REALLY STICKS OUT
2 IN MY MIND IS BBC. BUT THERE MIGHT HAVE BEEN OTHER
3 CORPORATIONS AND NAMES, BUT I REALLY WASN'T FAMILIAR WITH
4 THE CASE SO I DEFERRED TO THE OTHERS.

5 Q DID YOU SEE ANYTHING THAT YOU THOUGHT PERTAINED
6 OR POSSIBLY PERTAINED TO THE DEFENSE IN THIS CASE?

7 A YES, I DID.

8 Q WHAT?

9 A I SAW NOTES AND HANDWRITING AND WHAT I ASSUMED
10 WERE COMPUTER PRINTOUTS OF THINGS THAT I THINK WERE DEFENSE
11 ORIENTED, FROM MY EXPERIENCE.

12 Q WHAT DID YOU DO WHEN YOU SAW THOSE?

13 A WELL, AS SOON AS I REALIZED WHAT THEY WERE, I
14 IGNORED THEM OR SET THEM ASIDE.
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1 Q DO YOU RECALL NOW THE CONTENTS -- CAN YOU
2 SUMMARIZE THE CONTENTS OF ANYTHING THAT YOU MIGHT HAVE SEEN?

3 A WELL, STUFF THAT I SEE -- CORRECTION -- THAT I
4 SAW, SEEMED TO DO WITH WHAT I ASSUMED WAS JURY SELECTION
5 OR JURY VOIR DIRE. THEY SEEMED TO BE IMPRESSIONS OF
6 PROSPECTIVE JURORS.

7 I ONLY ASSUMED THAT THEY WERE PROBABLY MR. HUNT'S
8 IMPRESSIONS.

9 ALSO, I SAW BRIEF PHRASES.

10 Q WITHOUT TELLING US WHAT THE PHRASES WERE, DID
11 YOU GO FURTHER AND READ ANY OF THOSE ITEMS THAT CONTAINED
12 THE PHRASES ON THEM?

13 A NO, SIR.

14 AS SOON AS I REALIZED OR ASSUMED THAT THAT IS
15 WHAT THEY WERE, I PUT THEM ASIDE. I IGNORED THEM. I WENT
16 NO FURTHER WITH IT.

17 Q DID YOU COMMUNICATE THE CONTENTS OF ANY OF THOSE
18 DOCUMENTS TO ME?

19 A NOT THE CONTENTS, NO, SIR.

20 Q DID YOU AND I KNOW EACH OTHER BEFORE TODAY?

21 A NO, SIR, NEVER MET.

22 Q HAD YOU EVER SPOKEN WITH ME ON THE PHONE BEFORE
23 THIS MORNING AT APPROXIMATELY 10:30?

24 A THAT WAS THE FIRST TIME EVER.

25 Q AND DID YOU COMMUNICATE THE CONTENTS OF THESE
26 DOCUMENTS TO ANYONE ELSE WHO WAS THERE AT THE TIME THAT THE
27 SEARCH WAS GOING ON?

28 A NOT THE CONTENTS, BUT MERELY THAT THERE WAS WHAT

1 I ASSUMED DEFENSE ORIENTED MATERIAL THERE.

2 I WOULD HAVE TOLD THE OTHER OFFICERS AND AGENTS
3 THERE BUT I OBVIOUSLY DID NOT DISCUSS ANY CONTENTS.

4 Q WHAT WOULD YOU HAVE TOLD THEM?

5 A THAT THERE IS DEFENSE ORIENTED MATERIAL HERE.
6 AND SPECIFICALLY, I SAYS "TO DO WITH WHAT I ASSUMED WAS JURY
7 SELECTION OR EVALUATION OF PROSPECTIVE JURORS BECAUSE IT HAD
8 THEIR NAMES, AREAS OF RESIDENCE AND SOMEBODY'S IMPRESSIONS
9 OF WHAT THIS PERSON WAS LIKE, WHAT THEY READ."

10 I HAVE BEEN THROUGH A LOT OF JURY SELECTIONS IN
11 MAJOR CASES OVER THE YEARS AND HAVE SAT AT COUNSEL TABLE FOR
12 MONTHS AND KNOW PRETTY MUCH WHAT IS INVOLVED IN JURY
13 SELECTION AND THE ROUTINE AND IMMEDIATELY THIS IS WHAT IT
14 STRUCK ME AS AND SO I STOPPED READING IMMEDIATELY.

15 Q DID YOU COMMUNICATE TO THE OTHER PEOPLE THERE
16 THAT THEY SHOULD NOT LOOK AT THAT, THOSE ITEMS?

17 A DEFINITELY.

18 Q AND WERE YOU THERE WHEN MR. CHIER ARRIVED?

19 A YES.

20 I AM NOT EXACTLY SURE WHAT TIME BUT SOMETIME DURING
21 THIS SEARCH, MR. CHIER SHOWED UP UPSTAIRS.

22 Q AND DID MR. CHIER SAY ANYTHING OR SUGGEST THAT
23 YOU SHOULD STOP THE SEARCH?

24 A YES, HE DID.

25 Q WHAT DID HE SAY?

26 A WE WERE IN WHAT I PRESUME WAS MR. HUNT'S BEDROOM.
27 HE ATTEMPTED TO EXPLAIN TO SPECIAL AGENT BREILING THAT
28 MR. HUNT WAS PRO PER AND THAT HE NEEDED A MASTER.

1 IT WAS QUITE CLEAR TO ME THAT MR. BREILING DIDN'T
2 UNDERSTAND WHAT A MASTER WAS. I DID BECAUSE I HAVE BEEN
3 THROUGH THAT.

4 I THEN ASKED MR. CHIER, "IS HE IN FACT PRO PER?
5 HAS HE BEEN SO APPOINTED BY THE COURT?"

6 Q WHAT DID MR. CHIER SAY?

7 A "WELL, WE ARE IN THE PROCESS OF DOING THAT."

8 I SAID, "DO YOU ACTUALLY HAVE SOMETHING YOU CAN
9 SHOW US THAT HE IN FACT IS CO-COUNSEL ON THIS CASE?"

10 HE WANTED TO PUT ME IN TOUCH WITH THE JUDGE,
11 BECAUSE HE WAS GOING TO MAKE A REQUEST OR WAS IN THE PROCESS
12 OF DOING IT.

13 WELL, I SAID "IF YOU CAN ACTUALLY TELL ME THAT
14 HE IS PRO PER AND HAS BEEN SO APPOINTED BY THE JUDGE, THEN
15 I AGREE, YOU HAVE A POINT AND WE WILL STOP THE SEARCH UNTIL
16 WE CAN TALK TO THE JUDGE," HE BEING THE JUDGE, EITHER THE
17 JUDGE WHO HAD ISSUED THE SEARCH WARRANT OR THE JUDGE IN THIS
18 CASE HERE, WHICH I WASN'T FAMILIAR WITH.

19 I THEN ATTEMPTED TO EXPLAIN IT TO OSCAR BREILING
20 THAT IF WE WERE IN FACT ON THE PREMISES OF AN ATTORNEY, THAT
21 A MASTER WAS REQUIRED, AS TO MY UNDERSTANDING OF THE LAW.

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1 Q AND AT SOME POINT AFTER THAT, DID MR. BREILING
2 LEAVE TO MAKE A PHONE CALL TO THE DEPUTY ATTORNEY GENERAL,
3 JOHN VANCE, IF YOU KNOW?

4 A I KNOW HE TALKED TO MR. VANCE. I KNOW HE TALKED
5 TO OTHER PEOPLE ON THE PHONE. I KNOW AFTER THAT, HE MADE
6 CALLS BUT I CAN'T TELL YOU WHAT RELATIONSHIP IN TIME THERE
7 WAS.

8 BUT AT SOME POINT LATER, HE TOLD US TO CONTINUE
9 WITH THE SEARCH.

10 Q AT SOME POINT, WERE THERE SOME BOXES CONTAINING
11 MATERIAL TO BE SEIZED THAT WERE PLACED IN THE HALLWAY?

12 A YES, SIR.

13 Q AFTER THAT WAS DONE, DID MR. BREILING SAY ANYTHING
14 TO YOU ABOUT WHAT YOU SHOULD DO IN THE HALLWAY?

15 A AS MY FUNCTION WAS SECURITY, HE ASKED ME TO STAND
16 BY FOR SECURITY PURPOSES IN THIS LITTLE HALLWAY OUTSIDE THE
17 TWO BEDROOMS AND THE MASTER BEDROOM BELONGING TO MR. ROBERTS,
18 WHERE THERE WERE TWO BEVERLY HILLS POLICE DEPARTMENT EVIDENCE
19 BOXES, NEW BOXES THAT HAD MANILA ENVELOPES IN THEM, WHICH
20 WERE EVIDENCE ITEMS WHICH WERE BEING SEIZED.

21 HE ALLOWED MR. CHIER AND THIS YOUNG LADY, BROOKE
22 ROBERTS, TO GO THROUGH THEM AND HE ASKED ME TO MAINTAIN MY
23 PRESENCE THERE, MAKE SURE NOTHING DISAPPEARED, TO PROVIDE
24 CUSTODIAL SECURITY FOR DOCUMENTS.

25 Q DID YOU SEE MR. CHIER GOING THROUGH THE BOXES?

26 A YES, I DID.

27 Q AND WAS HE DICTATING OR ATTEMPTING TO DICTATE
28 A SUMMARY OF THE CONTENTS OF THE BOXES TO BROOKE ROBERTS?

1 A YES, HE WAS.

2 Q AT SOME POINT, DID MR. CHIER SAY THAT HE WAS
3 FINISHED OR WAS ABOUT TO BE FINISHED?

4 A YES.

5 Q WHAT DID YOU SAY TO HIM?

6 A I ASKED HIM IF HE WAS THROUGH, IF HE HAD HAD
7 ENOUGH TIME. HE SAID HE DID.

8 Q DID YOU SAY ANYTHING -- WERE THERE ANY TIME
9 LIMITS YOU PLACED ON HIM IN TERMS OF HOW LONG HE HAD TO GO
10 THROUGH THIS?

11 A NONE AT ALL.

12 Q WHAT DID YOU SAY TO HIM IN THAT REGARD, IF ANY-
13 THING?

14 A HE HAD AS MUCH TIME AS HE NEEDED. I WAS PLANNING
15 TO BE THERE THE WHOLE DAY.

16 I HAD NO TIME PROBLEMS WHATSOEVER. HE LOOKED
17 THROUGH IT. THEN HE SAID HE WAS THROUGH.

18 I SAID, "ARE YOU SURE YOU ARE THROUGH?" BECAUSE
19 I WAS IN NO HURRY. HE SAID HE WAS AND THEN HE WENT INTO
20 ANOTHER ROOM AND STARTED TALKING TO ONE OF THE EVIDENCE
21 TECHNICIANS TAKING PHOTOGRAPHS AND ASKED HIM SOMETHING ABOUT
22 FILM.

23 MR. WAPNER: THANK YOU. NOTHING FURTHER.

24 THE COURT: ALL RIGHT.

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EXAMINATION

27 BY MR. BARENS:

28 Q OFFICER TULLENERS, HOW LONG HAVE YOU KNOWN OSCAR

1 BREILING?

2 A I HAVE KNOWN OSCAR BREILING SINCE APPROXIMATELY
3 1974. THAT IS WHEN I BELIEVE HE CAME TO THE DEPARTMENT OF
4 JUSTICE. I WAS THERE ALREADY.

5 Q AT ANY TIME PRIOR TO JANUARY, 1987, HAVE YOU
6 EVER HEARD OSCAR BREILING USE JOE HUNT'S NAME?

7 A IF HE DID, IT HAS NO -- IT MEANT NOTHING TO ME
8 BECAUSE WE HAD ANNUAL MEETINGS WITH OUR UNITS. WE DISCUSSED
9 CASES AROUND THE TABLE.

10 AND IN THAT SESSION, WE HAVE DISCUSSED THIS
11 ESLAMINIA CASE THAT HE WAS WORKING ON. BUT I WAS NOT AT ALL
12 THOSE MEETINGS.

13 IF HE DISCUSSED THE NAME OF HUNT, IT WOULD HAVE
14 MEANT NOTHING TO ME.

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1 Q DID HE EVER DISCUSS THE ESLAMINIA CASE WITH YOU
2 PRIOR TO JANUARY OF 1987, SIR?

3 A IF HE DID, HE MENTIONED IT IN ONE OF THE MEETINGS.
4 I DON'T HAVE ANY SPECIFIC RECOLLECTION OF HIM ACTUALLY SITTING
5 DOWN AND DISCUSSING IT. IT WAS NEVER JUST ONE-ON-ONE, A
6 DISCUSSION OF THE CASE.

7 Q IS THE ANSWER NO, SIR?

8 A I AM AFRAID I DON'T UNDERSTAND YOUR QUESTION.

9 Q I AM ASKING YOU IF YOU EVER DISCUSSED THE
10 ESLAMINIA CASE -- IF HE EVER DISCUSSED IT WITH YOU PRIOR TO
11 JANUARY 1987. I AM NOT ASKING YOU TO TELL ME IF OR WHAT HE
12 TOLD YOU. DID HE OR DIDN'T HE?

13 THE COURT: WELL, IF YOU WILL -- HE SAID HE WANTS YOU
14 TO ANSWER THE QUESTION THE WAY HE WANTS YOU TO ANSWER IT.
15 YOU LISTEN VERY CAREFULLY, WILL YOU PLEASE?

16 THE WITNESS: I WILL.

17 Q BY MR. BARENS: IF YOU WOULD, SIR?

18 A IF YOU WILL DEFINE WHAT YOU MEAN BY "DISCUSS".

19 Q DID HE EVER USE THE ENGLISH LANGUAGE WITH YOU,
20 SIR, IN WHICH THE NAME ESLAMINIA AS AN ALLEGED VICTIM OF A
21 HOMICIDE INVOLVING HIM AS A VICTIM IN NORTHERN CALIFORNIA,
22 WAS SPOKEN IN THE ENGLISH LANGUAGE IN YOUR PRESENCE?

23 A YES.

24 Q AND ON HOW MANY OCCASIONS, SIR?

25 A I DON'T KNOW. ONE, MAYBE MORE.

26 Q AND WHEN WOULD THAT HAVE BEEN?

27 A DURING A TIME WHEN THE UNIT WOULD HAVE A JOINT
28 MEETING SOMEWHERE IN THE STATE. WE WOULD HAVE DISCUSSED CASES

1 WE WERE WORKING ON.

2 Q DURING THOSE CONVERSATIONS OR DISCUSSIONS, DID
3 HE EVER INDICATE THE NAMES OF ANY SUSPECTS IN THOSE MATTERS?

4 A THERE IS ONLY ONE THAT COMES TO MIND.

5 Q AND THAT WOULD BE?

6 A SOMEBODY BY THE NAME OF REZA OR REZA OR SOMETHING
7 LIKE THAT. I THINK THAT IT MIGHT BE THE VICTIM'S SON. I AM
8 NOT SURE.

9 Q NOW, DURING THOSE DISCUSSIONS, DID HE EVER INDICATE
10 TO YOU THAT THERE WAS ANY INFORMATION OR PERSONS GERMANE TO
11 THAT INVESTIGATION LOCATED IN SOUTHERN CALIFORNIA?

12 A NO, SIR.

13 Q DID YOU HAVE ANY SENSE AFTER THOSE DISCUSSIONS,
14 THAT SOMEHOW, THAT INVESTIGATION IN NORTHERN CALIFORNIA HAD
15 ANY IMPLICATIONS IN SOUTHERN CALIFORNIA?

16 A NO, SIR.

17 Q NOW, YOU ARE IN SPECIAL PROSECUTIONS?

18 A YES, SIR.

19 Q COULD YOU HELP ME UNDERSTAND WHAT YOU MEAN. IS
20 THERE A PARTICULAR TYPE OF PROSECUTIONS THAT YOU ARE INVOLVED
21 IN, SIR?

22 A THAT I AM PERSONALLY INVOLVED IN AT THIS TIME?

23 Q NO, SIR. YOU ARE IN A UNIT. WHAT SORT OF
24 SPECIAL PROSECUTIONS ARE YOU INVOLVED IN?

25 A WELL, IT STARTED OUT WITH ONE SET OF CRITERIA
26 AND OVER THE YEARS IT CHANGED TO ANOTHER SET OF CRITERIA.
27 I WOULD BE HAPPY TO EXPLAIN IT TO YOU IF YOU WOULD LIKE.

28 Q TO SOMEWHAT ABBREVIATE IT, COULD YOU JUST TELL

1 ME THE EVOLUTION IN 1985 AND '86 TO THE PRESENT, THAT TWO
2 YEAR AND ONE MONTH PERIOD?

3 A I THINK AT THAT TIME WE WERE FOCUSING ON
4 TRADITIONAL, CLASSICAL OR FUNCTIONAL ORGANIZED CRIME, TERRORIST
5 GROUPS WHICH WOULD INCLUDE PRISON GANGS AND OUTLAW MOTORCYCLE
6 GANGS AND THAT TYPE OF THING.

7 I THINK THAT THAT WAS BASICALLY THE PARAMETERS
8 AT THAT TIME, ALTHOUGH WE DID INVESTIGATIONS IN OTHER AREAS,
9 INCLUDING MAJOR FRAUD AND NARCOTICS.

10 Q AND IN 1986, WERE YOUR ASSIGNMENTS ANY DIFFERENT
11 THAN WHAT YOU DESCRIBED?

12 A IN 1986, I WAS IN A HOMICIDE TRIAL IN HUMBOLDT
13 COUNTY.

14 Q AND YOU WERE PERSONALLY OF COURSE, DURING THAT
15 TIME, YOU WERE INVOLVED IN 1986 IN THE HOMICIDE INVESTIGATION?

16 A YES SIR. I WAS.

17 Q AND DID YOU INVESTIGATE ANY HOMICIDES IN SOUTHERN
18 CALIFORNIA?

19 A YES I DID.

20 Q DID ANY OF THEM INVOLVE THE ALLEGED DISAPPEARANCE
21 OF RON LEVIN?

22 A OF WHOM?

23 Q A PERSON NAMED RON LEVIN? YOU PROBABLY HAVE
24 ANSWERED MY QUESTION.

25 A NO SIR.

26 Q WITHIN THAT ACTIVITY LEVEL, DID YOU HAVE ANY
27 SPECIALTIES THAT YOU PURSUED?

28 A IN WHAT PARTICULAR LEVEL? I DON'T UNDERSTAND.

1 Q AS AN INVESTIGATOR, WAS THERE ANY PARTICULAR,
2 SPECIALIZED TYPE OF INVESTIGATION THAT YOU DID?

3 A I HAVE DONE ALL KINDS OF INVESTIGATIONS OVER
4 THE YEARS. I MEAN, LITERALLY, ALL KINDS OF CIVIL TO SPECIAL
5 TO CRIMINAL TO ALL KINDS.

6 OVER THE LAST TWO YEARS, I HAVE DONE PROBABLY
7 FIVE MAJOR HOMICIDE TRIALS REPRESENTING SOME 20 VICTIMS AND
8 MAYBE 6 OR 7 DEFENDANTS. THAT IS PROBABLY WHERE MY TIME HAS
9 BEEN TAKEN UP.

10 Q DID YOU EVER QUALIFY IN A COURTROOM AS AN EXPERT
11 IN ANY PARTICULAR AREA?

12 A YES, BACK IN THE '60'S IN THE AREA OF NARCOTICS,
13 NARCOTICS ENFORCEMENT. IN THE LATE '60'S AND EARLY '70'S
14 IN AUTO THEFT AND PROBABLY IN OTHER AREAS OVER THE YEARS AND
15 WEAPONS.

16 I HAVE BEEN A RANGE MASTER FOR 25 YEARS. THERE
17 ARE OTHER AREAS, INFORMANTS AND PRISON GANG PROCEDURES AND
18 A LOT OF MY CASES INVOLVED CONTRACT KILLINGS BY GANGS.

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1 Q HAVE YOU EVER HEARD OR READ ANYTHING ABOUT POLICE
2 PLANTING SNITCHES IN JAIL CELLS?

3 A YES.

4 Q YOU HAVE HEARD THAT, HAVEN'T YOU?

5 A YES, SIR, I HAVE.

6 Q AND YOU HAVE BEEN INVOLVED IN CASES, HAVE YOU
7 NOT, WHERE THERE WAS A SNITCH WHO CAME TO COURT WHO HAD BEEN
8 PLANTED NEXT TO A DEFENDANT IN A JAILHOUSE SETTING, WHO LATER
9 CAME TO COURT AND TESTIFIED ABOUT CERTAIN THINGS THE DEFENDANT
10 HAD ALLEGEDLY TOLD HIM IN THE JAILHOUSE?

11 A WELL, COULD YOU GO OVER THE FIRST PART? I HAVE
12 BEEN INVOLVED IN WHAT, DID YOU SAY?

13 Q HAVE YOU EVER BEEN INVOLVED IN A CASE -- AND I
14 AM NOT SUGGESTING THAT YOU INITIATED THIS -- BUT HAVE YOU
15 EVER BEEN INVOLVED IN A CASE WHERE THERE WAS A SNITCH ON THE
16 STAND TESTIFYING, WHO HAD BEEN PLANTED IN A JAIL SETTING,
17 WHO LATER TESTIFIED ABOUT WHAT A DEFENDANT ALLEGEDLY TOLD
18 HIM?

19 A I AM SORRY. I DON'T UNDERSTAND THE QUESTION.

20 I UNDERSTAND WHAT YOU ARE TRYING TO SAY, BUT YOU
21 ARE TALKING ABOUT BEING INVOLVED IN.

22 I HAVE HEARD THAT. I KNOW THE VIOLATION OF LAW
23 THAT IS CONCERNED THERE. I BELIEVE IT IS THE BARBER RULE.

24 I HAVE NOT BEEN INVOLVED WHERE A WITNESS WAS
25 DELIBERATELY PLANTED BY THE POLICE TO SIT NEXT TO A DEFENDANT
26 IN JAIL. I HAVE HEARD THAT THOSE THINGS MIGHT HAVE OCCURRED.

27 I HAVE BEEN OFFERED TESTIMONY BY WITNESSES WHO
28 WERE WILLING TO DO THAT AND I HAVE WRITTEN REPORTS ON THAT.

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1 I HAVE DISCOVERED THE DEFENSE ON THE PRIOR
2 HOMICIDE TRIALS WHERE THAT DID OCCUR AND I COULD NAME THOSE,
3 IF YOU LIKE.

4 Q WHY DO YOU WANT TO DO THAT?

5 A OBVIOUSLY, YOU ARE MAKING THE INQUIRY, COUNSELOR.
6 I AM TRYING TO PROVIDE YOU WITH AS MUCH INSIGHT INTO THAT
7 PROBLEM AS I CAN.

8 Q I JUST WANTED TO KNOW IF YOU HAVE EVER HEARD OF
9 JAILHOUSE SNITCHES BEING PLANTED; YOU HAVE, HAVEN'T YOU?

10 A THEN YOU MADE A RATHER LENGTHY QUESTION, WHICH
11 I WAS TRYING TO ADEQUATELY EXPLAIN MY ANSWER TO YOU.

12 Q I SUPPOSE THE ANSWER IS THAT YOU HAVE HEARD OF
13 SNITCHES BEING PLANTED IN JAILHOUSES AND YOU ANSWERED YES,
14 I GUESS, EVENTUALLY?

15 A I HAVE HEARD OF THOSE ALLEGATIONS, YES.

16 Q THANK YOU.

17 NOW YOU SAID BEFORE YOU WENT TO THE ROBERTS'
18 HOUSE YOU RECEIVED SOME BRIEFING AT THE B.H.P.D. FROM OSCAR
19 BREILING?

20 A B.H.P.D.?

21 Q BEVERLY HILLS POLICE DEPARTMENT.

22 A OH, BEVERLY HILLS, YES, SIR.

23 Q YOU DID, DID YOU NOT?

24 A THAT'S CORRECT.

25 Q AND PRIOR TO COMING HERE TODAY, HAD YOU EVER
26 DISCUSSED THAT BRIEFING WITH ANYONE?

27 A PRIOR TO COMING HERE TODAY? THAT DAY?

28 Q I AM SAYING ANY DAY SINCE THEN UNTIL NOW.

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1 I DIDN'T TAKE ROLL.

2 Q WELL, WHAT ELSE DID YOU TELL HIM?

3 A THAT BREILING GAVE US ALL A COPY OF THE SEARCH
4 WARRANT AND THE AFFIDAVIT OR DECLARATION IN SUPPORT THEREOF
5 AND ASKED US TO READ IT, TO TAKE THE TIME TO READ IT.

6 WE THEN WOULD BE REQUESTED TO SIGN A DOCUMENT
7 ATTESTING TO THE FACT THAT WE HAD READ IT.

8 AND THAT MR. BREILING THEN MADE ASSIGNMENTS, WHO
9 WAS TO GO WHERE. HE TOLD US ABOUT THE FACT THAT THIS
10 GENTLEMAN'S PLACE WHERE WE WERE GOING TO SEARCH, THIS
11 MR. HUNT, WAS A DEFENDANT IN TRIAL.

12 BASICALLY, THAT IS IT.

13 I AM SURE THERE WAS MORE, BUT I CAN'T REMEMBER.

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1 Q WHAT ELSE DID HE SAY? HE SAID "THIS FELLOW IS
2 IN TRIAL," WHAT ELSE DID HE SAY TO YOU IN THAT REGARD?

3 A HE PROBABLY SAID OTHER THINGS BUT I COULDN'T --
4 THE COURT: PARDON ME. ARE YOU ASKING HIM WHAT HE WAS
5 TOLD BY BREILING?

6 MR. BARENS: NO. I AM ASKING --

7 THE COURT: I THOUGHT THAT WAS THE QUESTION YOU ASKED.

8 WHAT ELSE HE TOLD THE DISTRICT ATTORNEY, IS THAT
9 WHAT YOU ARE ASKING?

10 MR. BARENS: YES, YOUR HONOR.

11 Q I AM ASKING YOU NOW WHAT ELSE DID YOU TELL THE
12 DISTRICT ATTORNEY ABOUT WHAT MR. BREILING TOLD YOU WITH
13 RESPECT TO THE FACT THAT MR. HUNT WAS IN TRIAL?

14 A THAT IF WE SAW ANYTHING THAT WAS DEFENSE RELATED
15 ORIENTED, THAT WE WERE TO IGNORE IT.

16 Q NOW, DID YOU KNOW WHAT MR. HUNT'S DEFENSE
17 CONSISTED OF?

18 A NO, SIR. HOW WOULD I KNOW THAT?

19 Q NO WAY YOU COULD, WOULD YOU?

20 A NO, SIR, NOT UNLESS YOU OR MR. HUNT TOLD ME.

21 Q WELL, DID YOU HAVE ANY CRITERIA THAT WERE
22 ARTICULATED TO YOU THAT WOULD ENABLE YOU TO RECOGNIZE
23 MR. HUNT'S DEFENSE MATERIAL?

24 A JUST THROUGH MY PAST 22 YEARS OF EXPERIENCE AS
25 A POLICE OFFICER AND HAVING BEEN THROUGH MANY, MANY, MANY
26 TRIALS, MANY HOMICIDE TRIALS.

27 Q HOW MUCH DEFENSE MATERIAL HAVE YOU LOOKED AT
28 DURING TRIALS?

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1 A DEFENSE MATERIAL?

2 Q UH-HUH.

3 A OTHER THAN THAT WAS FURNISHED TO US IN MANY, MANY
4 MOTIONS IN THE HILLSIDE STRANGLER CASE, THERE WERE OVER 267
5 MOTIONS, WHICH WERE ALL DEFENSE MATERIALS. I LOOKED AT THEM
6 IN GREAT LENGTH.

7 Q THOSE WERE COURT PLEADINGS, WERE THEY NOT?

8 A IT WAS DEFENSE ORIENTED MATERIAL.

9 Q I AM NOT GOING TO DENY THAT, BUT THOSE WERE
10 PLEADINGS THAT ARE FILED IN THE COURTROOM?

11 A THEN THERE IS ALSO ANOTHER PROCESS THAT HAPPENS
12 DURING THOSE TRIALS IS THAT AT SOME POINT THE PEOPLE REST
13 AND THE PEOPLE PUT ON THEIR CASE IN CHIEF. AT THAT POINT
14 IN TIME, YOU SEE A RATHER LENGTHY PRESENTATION OF WHAT THE
15 DEFENSE STRATEGY IN THIS CASE IS THROUGH THE FORMS OF
16 WITNESSES, EVIDENCE, ALSO GRAPHIC CHARTS AND OTHER THINGS
17 LIKE THAT AND YOU GET A PRETTY GOOD CLUE AS TO WHAT THE
18 DEFENSE IDEA WAS ABOUT A PARTICULAR TRIAL.

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1 Q NOW, DID YOU LOOK FOR THINGS THAT LOOKED LIKE
2 WHAT YOU SAW IN THE -- YOU KNOW, YOU WOULD SOMEHOW RECOGNIZE
3 THEM, THINGS THAT LOOKED LIKE WHAT YOU HAD SEEN IN THE
4 HILLSIDE STRANGLER CASE? DID YOU LOOK FOR PLEADINGS AND THINGS
5 LIKE THAT SO YOU WOULD NOT LOOK FOR THEM?

6 A NO, SIR. I DID NOT LOOK FOR THEM.

7 Q BUT WHEN YOU WENT THERE WITH THE THOUGHT IN MIND
8 NOT TO LOOK AT DEFENSE MATERIALS, IS THAT THE KIND OF THING
9 THAT YOU HAD IN MIND?

10 A ALL OF THE THINGS THAT I WOULD HAVE BEEN EXPOSED
11 TO THROUGH MY YEARS OF EXPERIENCE, IF I SAW ANYTHING THAT
12 WOULD SUGGEST TO ME IT WAS DEFENSE-RELATED WHICH IS PRIVILEGED
13 INFORMATION, I AM WELL AWARE OF THAT, AS WERE ALL OF THE
14 OFFICERS THAT WERE THERE.

15 WE WOULD HAVE IGNORED IT. I WOULD HAVE IGNORED
16 IT. I WAS NOT SPECIFICALLY LOOKING FOR DEFENSE MATERIAL.

17 I KNEW ENOUGH ABOUT THE LAW, THAT IF I SAW THAT,
18 I WOULDN'T PROCEED WITH IT. BUT I WAS LOOKING FOR WHAT LITTLE
19 SEARCHING I DID, FOR EVIDENCE NAMED IN THE WARRANT.

20 Q NOW, WHAT DID YOU THINK YOU WERE LOOKING FOR?

21 A WELL, AFTER READING THE WARRANT, IT HAD TO DO
22 WITH EVIDENCE TO DO WITH THIS MURDER OF THIS MAN ESLAMINIA
23 AND SUSPECTS INVOLVED IN THAT.

24 THERE WERE SUCH NAMES AS -- I AM TRYING TO RECALL
25 WHAT THEY WERE. THERE WAS A PERSON BY THE NAME OF DOSTI AND
26 ONE BY THE NAME OF GRAHAM. THERE WAS ONE BY THE NAME OF
27 KARNY. THERE WAS SOMEBODY BY THE NAME OF PITTMAN, WHICH IS
28 WHERE I SAW THE NAME PITTMAN ON THE NOTE.

A-2

1 AND THEN, THERE WAS MR. HUNT'S NAME. AND ALSO,
2 I BELIEVE THAT THERE WERE DECLARATIONS OR AFFIDAVITS IN
3 SUPPORT THAT HAD SOMETHING TO DO ABOUT THE FACT THAT AGENT
4 BREILING HAD RECEIVED ADDITIONAL INFORMATION ABOUT A MONTH
5 AGO, INDICATING THAT OR SUGGESTING THAT MR. HUNT MIGHT BE IN
6 POSSESSION OF SOME MORE EVIDENCE AS TO THE MOTIVE OR PURPOSE
7 IN THAT HOMICIDE.

8 THERE WAS SOME EVIDENCE THAT WAS SEIZED PURSUANT
9 TO HIS RECEIVING A BRIEFCASE OR SOMETHING. I AM NOT SURE
10 WHAT IT WAS IN THE WARRANT. I CAN'T REMEMBER NOW.

11 Q WAS THE LEVIN ALLEGED HOMICIDE BRIEFED TO YOU
12 AT ALL BEFORE YOU WENT TO THE RESIDENCE?

13 A IF IT WAS, I DON'T REMEMBER. I DON'T REMEMBER
14 THAT NAME.

15 Q WAS THERE ANY FACT BACKGROUND DISCUSSION MADE
16 ABOUT THE TRIAL IN WHICH MR. LEVIN -- MR. HUNT IS INVOLVED
17 IN LOS ANGELES, MADE DURING THE BRIEFING?

18 A NO, SIR.

19 Q AT ANY TIME?

20 A NO, JUST THE FACT THAT HE WAS.

21 Q PERIOD?

22 A YES, SIR.

23 Q NOW, HOW DID YOU GO TO THAT HOUSE, IN THE COMPANY
24 OF WHOM?

25 A I BELIEVE THE DETECTIVE FROM BEVERLY HILLS,
26 ZOELLER. I BELIEVE THAT IS HIS NAME. HE DROVE THE CAR.
27 I WAS IN THE BACK SEAT. I AM NOT SURE WHO ELSE, EITHER
28 BREILING OR DETECTIVE ROZZI WAS IN THE CAR. BUT I AM NOT

1 SURE, SIR.

2 Q INCIDENTALLY, PRIOR TO THAT DAY, HAD YOU MET
3 DETECTIVE ZOELLER?

4 A IF I DID, IT WOULD HAVE TO BE 15 OR 20 YEARS AGO.
5 BECAUSE I DON'T REMEMBER. BUT I HAVE HAD CONTACT OVER THE
6 YEARS WITH THE BEVERLY HILLS POLICE ON CASES.

7 Q BUT THE ANSWER TO MY QUESTION IS THAT I BELIEVE
8 YOU HAD NOT SPOKEN TO OR SEEN DETECTIVE ZOELLER FOR AT LEAST
9 15 YEARS PRIOR TO JANUARY 8, 1987? IS THAT A TRUE STATEMENT?

10 A I DON'T KNOW IF I SAW HIM IN THE EARLY SEVENTIES
11 BECAUSE I HAD OCCASIONS TO BE IN BEVERLY HILLS WHEN I DID
12 A CASE.

13 I WOULD SAY THAT IT WAS TEN YEARS FOR SURE. I
14 HAVE NOT TALKED TO HIM FOR SURE IN THE LAST TEN YEARS.

15 Q DURING THE DRIVE FROM THE B.H.P.D. TO THE
16 LOCATION OF THE SEARCH, DID OFFICER ZOELLER DISCUSS ANYTHING
17 ABOUT AN INVESTIGATION HE WAS INVOLVED WITH CONCERNING
18 JOE HUNT?

19 A NO, SIR.

20 Q NEVER MENTIONED THAT?

21 A NO, SIR. HE DID NOT.

22 Q DID YOU REALIZE AT ANY TIME THAT OFFICER ZOELLER
23 WAS INVOLVED IN AN INVESTIGATION OF JOE HUNT INDEPENDENT OF
24 THE NORTHERN CALIFORNIA CASE?

25 A NO, SIR. THAT IS NOT WHAT I THOUGHT.

26 Q DO YOU THINK IT TODAY?

27 A NO. I THOUGHT ZOELLER WAS INVOLVED BECAUSE WE
28 DID THE SEARCH WARRANT IN HIS CITY UNTIL I REALIZED THAT WE

1 WERE GOING JUST OVER THE BORDER INTO LOS ANGELES. THAT IS
2 WHY I ASSUMED WE WERE AT BEVERLY HILLS.

3 Q ALL RIGHT. SIR, NOW, WHEN YOU GOT TO THE HOUSE,
4 YOU SAY THAT YOU EVENTUALLY WENT UPSTAIRS TO THIS TWO-BEDROOM
5 AREA?

6 A YES, SIR.

7 Q FOR THE SAKE OF CONVENIENCE, I WILL CALL ONE OF
8 THE TWO ADJACENT ROOMS A BEDROOM AND ONE A COMPUTER ROOM.
9 CAN YOU RELATE TO WHAT I AM SAYING?

10 A A COMPUTER ROOM WHERE MR. ROBERTS DESCRIBED IT
11 AS THE GUEST BEDROOM.

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1 Q WELL, LET'S CALL IT THE COMPUTER ROOM FOR NOW.
2 WHENEVER I SAY THAT, I AM INDICATING THE ROOM WHERE THE COMPUTER
3 WAS LOCATED.

4 A FINE. ALL RIGHT.

5 Q WERE YOU IN BOTH OF THOSE ROOMS?

6 A YES, SIR.

7 Q WHEN YOU FIRST WENT INTO THE COMPUTER ROOM, DID
8 YOU LOOK AT MATERIALS?

9 A NO.

10 Q DID YOU AT ANY TIME LOOK AT MATERIALS IN THE
11 COMPUTER ROOM?

12 A LIMITEDLY, YES.

13 Q ALL RIGHT. WHERE WERE THE FIRST MATERIALS LOCATED
14 THAT YOU LOOKED AT IN ANY FASHION, SIR IN THAT ROOM?

15 A IT MIGHT HAVE BEEN A DESK OR A TABLE TOP NEXT
16 TO THE COMPUTER.

17 Q WHAT MATERIALS DID YOU LOOK AT IN THAT LOCATION?

18 A I BELIEVE THERE WAS EITHER -- EITHER THERE OR
19 IN THE IMMEDIATE VICINITY, WAS WHAT APPEARED TO ME AS THE
20 COMPUTER TYPE PAPER. I THINK IT IS CALLED TRACK PAPER OR
21 SOMETHING. IT LOOKS LIKE IT IS FED THROUGH A PRINTER.

22 IT HAD SOME TYPE OF PRINT ON IT.

23 Q DID YOU LOOK AT THE TYPED PRINT?

24 A YES I DID.

25 Q WHAT DID THE TYPED PRINT SAY?

26 A I CAN'T REMEMBER WHAT IT SAID. IT HAD THE NAME
27 OF A PERSON. I CAN'T TELL YOU IF IT WAS A MALE OR A FEMALE
28 AND SOMEBODY'S -- WHAT I ASSUMED WERE PERSONAL OBSERVATIONS

1 ABOUT THIS PERSON.

2 Q AND WHAT SORTS OF OBSERVATIONS?

3 A WELL, AS IF SOMEBODY WERE SITTING IN A COURTROOM.

4 THE COURT: YOU ARE ASKING FOR INFORMATION ABOUT
5 DEFENSE-ORIENTED MATTERS. IS THAT WHAT YOU WANT TO HAVE
6 EXPLAINED?

7 MR. BARENS: I WANT TO KNOW WHAT HE READ.

8 THE COURT: I THOUGHT YOU SAID THAT YOU DIDN'T WANT
9 TO HAVE ANYTHING REVEALED WHICH HAD ANYTHING TO DO WITH THE
10 DEFENSE-ORIENTED MATTERS.

11 MR. BARENS: I WANT TO KNOW WHAT HE KNOWS.

12 THE COURT: IF YOU WANT HIM TO TELL YOU, GO AHEAD. SURE.
13 IT IS ALL RIGHT.

14 YOU WERE BEING CAREFUL ABOUT LIMITING ANYTHING
15 EXCEPT GENERALIZATIONS.

16 MR. BARENS: THAT APPLIED TO THE DEFENDANT'S TESTIMONY.

17 THE COURT: ALL RIGHT. TELL US PRECISELY WHAT IT IS,
18 FROM WHAT YOU REMEMBER.

19 MR. BARENS: THANK YOU, YOUR HONOR.

20 THE COURT: ALL RIGHT.

21 Q BY MR. BARENS: SIR?

22 A I DON'T REMEMBER WHAT I READ. I CAN ONLY GIVE
23 YOU THE GIST OR THE IDEA THAT I GOT FROM READING THAT.

24 THE COURT: WHAT WAS THAT?

25 THE WITNESS: IT WAS SOMEBODY'S OBSERVATION ABOUT WHAT
26 I WOULD ASSUME WAS A PROSPECTIVE JUROR WHO WAS BEING
27 QUESTIONED BY COUNSEL ON THE OTHER SIDE?

28 I CAN GIVE YOU AN EXAMPLE, BUT IT WOULD NOT HAVE

1 BEEN WHAT I READ BECAUSE I REALLY DON'T REMEMBER WHAT I READ.

2 Q BY MR. BARENS: I DON'T WANT YOU TO GIVE ME A
3 HYPOTHETICAL. IF YOU RECALL WHAT YOU READ, TELL ME. IF YOU
4 DON'T, YOU WON'T.

5 A THAT'S CORRECT.

6 Q HOW WOULD YOU KNOW THAT THE SUBJECT MATTER OF
7 WHAT YOU WERE READING WAS A JUROR AND NOT A WITNESS?

8 A BECAUSE I HAVE BEEN THROUGH A LOT OF JURY VOIR
9 DIRES. AND PEOPLE ATTEMPT TO DETERMINE ON BOTH SIDES OF THE
10 TABLE, WHAT PARTICULAR AREAS OF THE COMMUNITY THE JUROR COMES
11 FROM AND POLITICAL PHILOSOPHY AND THE TYPE OF BOOKS THEY READ
12 AND THEIR ATTITUDES TOWARD THE DEATH PENALTY OR ON THE BRIGGS IN-
13 ITIATIVE AND THAT KIND OF STUFF.

14 THAT SEEMED TO ME A QUICK SUMMARY OF SOMEBODY'S
15 IMPRESSION OF IT.

16 IT SEEMED LIKE A NICE, INTELLIGENT WOMAN AND THAT
17 KIND OF THING. I IMMEDIATELY FORMED THE IMPRESSION THAT
18 THAT IS WHAT IT WAS. I DON'T KNOW FOR A FACT THAT IT WAS.
19 IT WAS AN ASSUMPTION.

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1 Q QUITE SO. AN ASSUMPTION, ISN'T IT, SIR?

2 A YES, IT IS.

3 Q YOU DON'T KNOW WHETHER YOU WERE READING SOMETHING
4 ABOUT A PROSPECTIVE JUROR OR ABOUT A PROSPECTIVE WITNESS,
5 AS A MATTER OF FACT, DO YOU, SIR?

6 A NO --

7 Q AS A MATTER OF FACT, SIR?

8 A -- I DISAGREE.

9 THE COURT: HE HAS ALREADY ANSWERED THAT IT WASN'T
10 A WITNESS. IT WAS A JUROR.

11 MR. BARENS: I SUBMIT --

12 THE COURT: ARE YOU TRYING TO PUT WORDS INTO HIS MOUTH,
13 IS THAT WHAT YOU ARE TRYING TO DO, THAT IT HAD TO DO WITH
14 A WITNESS, IS THAT WHAT YOU SAID?

15 HE CATEGORICALLY SAID THAT IT HAD TO DO WITH
16 THE VOIR DIRE OF A PROSPECTIVE JUROR.

17 MR. BARENS: YOUR HONOR, I DON'T HAVE TO TAKE THIS
18 WITNESS' WORD FOR ANYTHING THAT WAS ON THE PROSECUTION
19 EXAMINATION.

20 THE COURT: YOU DON'T HAVE TO. HE TESTIFIED THOROUGHLY
21 ON THIS. I DON'T SEE ANY REASON TO GO OVER IT AGAIN. HE
22 TESTIFIED THAT IT WASN'T ABOUT A WITNESS.

23 MR. BARENS: I DON'T KNOW WHETHER IT WAS OR WASN'T.

24 THE COURT: WELL, YOU HEARD IT. I DID.

25 MR. BARENS: I HEARD HIS IMPRESSION, YOUR HONOR.

26 THE COURT: ALL RIGHT, GO AHEAD.

27 Q BY MR. BARENS: DID YOU TELL ME THAT YOU CANNOT
28 BE ABSOLUTELY SURE THAT YOUR IMPRESSION IS ACCURATE?

1 THE COURT: GO AHEAD.

2 Q BY MR. BARENS: DID YOU TELL ME THAT, SIR?

3 A I DON'T UNDERSTAND THE QUESTION. WILL YOU TRY
4 AGAIN, SIR?

5 Q DID YOU CONCLUDE YOUR PREVIOUS REMARKS BY TELLING
6 ME THAT YOU COULD NOT BE ABSOLUTELY SURE THAT YOUR IMPRESSIONS
7 OF WHAT YOU READ WERE ACCURATE AS TO WHETHER OR NOT THEY
8 CONCERNED A PROSPECTIVE JUROR OR A PROSPECTIVE WITNESS OR
9 SOMEONE ELSE, AS A MATTER OF FACT?

10 A NOT TO BE ACCURATE. TO A PERCENTAGE, I WOULD
11 SAY 98 PERCENT THAT IT WAS A JURY THING.

12 I HAVE SEEN ENOUGH WITNESS SUMMARIES, LISTENED
13 TO ENOUGH WITNESS TESTIMONY, SEEN ENOUGH WITNESS TRANSCRIPTS,
14 THAT I WOULD HAVE EXPECTED THERE TO BE SOMETHING TOTALLY
15 DIFFERENT.

16 IF IT HAD BEEN AN EXAMINATION BY EITHER SIDE
17 OF A WITNESS -- THERE WAS NOTHING THERE WHICH SUGGESTED
18 TO ME THAT WAS A WITNESS.

19 THAT, TO ME, WAS SOMEBODY'S IMPRESSION OF A
20 PROSPECTIVE JUROR.

21 Q THEN THAT WAS YOUR IMPRESSION?

22 A YES, BUT I CAN'T BE CERTAIN.

23 Q THANK YOU, SIR.

24 NOW, YOU SAID AT TIMES YOU DEFERRED MATERIALS
25 TO OSCAR BREILING THAT YOU WERE LOOKING AT AS OPPOSED TO DOING
26 WHAT? WHEN MR. WAPNER WAS ADDRESSING YOU, THERE CAME A POINT
27 IN THAT TESTIMONY WHERE YOU SAID "I DEFERRED ON SOME OF THE
28 MATERIALS TO MR. BREILING," WHAT DID YOU MEAN BY THAT?

1 A MOST OF THE TIME, I JUST STOOD THERE AND PROVIDED
2 SECURITY, BECAUSE THERE WERE OTHER PEOPLE, NON-LAW ENFORCEMENT
3 PERSONNEL THERE, TO SEE THAT NOTHING DISAPPEARED, NOTHING
4 WAS DESTROYED.

5 I DID SOME LOOKING. WHEN I LOOKED THROUGH THINGS
6 AND I SAW ANYTHING THAT HAD ANY QUESTION ABOUT IT, I DEFERRED
7 TO MR. BREILING TO MAKE A DETERMINATION ABOUT WHETHER OR NOT
8 THAT MIGHT BE EVIDENCE.

9 MOST OF THE SEARCHING OF THOSE TWO ROOMS WAS
10 DONE BY DETECTIVE ROZZI, THE DETAILED SEARCHING.

11 I DID WHAT I WOULD PROBABLY DESCRIBE AS NOTHING
12 MORE AS CURSORY GLANCES THROUGH STUFF.

13 Q DID DETECTIVE ROZZI SEEM TO BE DOING HIS JOB
14 REASONABLY WELL?

15 A YOU WANT MY OPINION?

16 Q THAT IS ALL I CAN ASK FOR.

17 A GOOD.

18 YES, HE LOOKED TO ME TO BE VERY PROFESSIONAL.

19 Q METICULOUSLY GOING OVER THE DOCUMENTS HE WAS
20 ADDRESSING, SIR?

21 A I DON'T KNOW IF IT WAS METICULOUSLY.

22 I THINK HE WOULD LOOK AT THE OUTSIDE OF THE FOLDER
23 OR THE ENVELOPE ON THE DOCUMENT, LOOK THROUGH IT. IF IT
24 SEEMED TO HAVE THINGS RELATED TO THE CASE, HE WOULD SAY
25 "THIS IS WHAT WE ARE LOOKING FOR" AND PUT IT IN A STACK.

26 AND "THIS WAS NOT INVOLVED WITH THIS" AND HE
27 PUT THAT IN ANOTHER STACK ON THE BED IN THE GUEST BEDROOM
28 THAT YOU REFER TO AS THE COMPUTER ROOM.

1 Q IN ORDER TO MAKE THOSE DIFFERENTIATIONS,
2 OBVIOUSLY, HE HAD TO LOOK AT THINGS HE WAS DIFFERENTIATING
3 AS AMONGST; IS THAT CORRECT?

4 A THAT WOULD BE SOMETHING I WOULD ASSUME, YES.

5 Q DID YOU SEE HIM LOOK AT ANYTHING THAT HAD BEEN
6 IN A TRASH CAN?

7 A I DON'T RECALL ANY TRASH CANS, NO SIR, I CAN'T
8 RECALL THAT.

9 Q YOU NEVER SAW THAT?

10 A IT IS POSSIBLE BUT I DON'T HAVE NO MEMORY OF
11 IT.

12 I DON'T EVEN RECALL A TRASH CAN IN THE PLACE.

13 THERE WERE PAPERS ON THE FLOORS, CLOTHES ON THE
14 FLOOR, PAPERS ON THE BED. THE PLACE WAS A MESS.

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1 Q I SHOULD THINK.

2 MR. WAPNER: EXCUSE ME, YOUR HONOR. I DON'T KNOW
3 EXACTLY WHAT IS HAPPENING HERE BUT I AM BEING SHOT ACROSS
4 THE TABLE SOME DOCUMENTS THAT LOOK LIKE THEY WERE GENERATED
5 BY A COMPUTER AND --

6 MR. BARENS: WE ARE GIVING HIM, YOUR HONOR -- LATER
7 ON TODAY, AS A COURTESY, AT THE END OF THIS WHEN WE GO TO
8 ARGUE, INSTEAD OF READING A WHOLE BUNCH OF STUFF INTO THE
9 RECORD, WE HAVE SOME CASE ANALYSES OF THE THREE CASES MR.
10 WAPNER BROUGHT BEFORE THE COURT THAT WE ARE GOING TO PROVIDE
11 YOUR HONOR WITH AND MR. WAPNER WITH SO THAT YOUR HONOR COULD
12 READ THEM, INSTEAD OF US READING THEM.

13 THE COURT: YOU DON'T HAVE TO SHOVE IT ACROSS RIGHT
14 IN THE MIDDLE OF EXAMINATION. YOU CAN GIVE IT TO HIM LATER.

15 MR. BARENS: ALL RIGHT, YOUR HONOR. WE THOUGHT THAT --
16 ALL RIGHT, YOUR HONOR. THANK YOU.

17 THE COURT: YOU DON'T HAVE TO THROW IT AT HIM. JUST
18 HAND IT TO HIM IN A POLITE WAY.

19 GO AHEAD.

20 MR. BARENS: NO INTENT TO THROW IT AT HIM.

21 I WAS SOMEWHERE, YOUR HONOR. I WILL START WITH
22 A NEW QUESTION.

23 THE COURT: DO YOU WANT TO HAVE IT READ BACK?

24 MR. BARENS: I WILL WITHDRAW THE LAST QUESTION.

25 Q THE NEXT QUESTION WILL BE: SIR, AFTER READING
26 THE STUFF THAT HAD BEEN ON THE COMPUTER TABLE ADJACENT TO
27 THE COMPUTER, WHERE WERE THE NEXT MATERIALS LOCATED THAT YOU
28 LOOKED AT?

1 A I HAVE DIFFICULTY WITH YOUR PHRASE "READING,"
2 SIR.

3 READING, TO ME, MEANS READING IN DETAIL.

4 I SAW IT, AND STARTED AND REALIZED WHAT IT WAS
5 AND STOPPED. I WOULDN'T DESCRIBE IT AS READING AND I WOULDN'T
6 WANT TO BE CATEGORIZED BY ANYBODY LISTENING TO THAT AS BEING
7 THAT.

8 THE COURT: YOU MEAN GLANCING IT OVER, IS THAT IT?

9 THE WITNESS: YES.

10 Q BY MR. BARENS: FAST READING?

11 A NO, SIR, NOT FAST READING.

12 YOU MUST UNDERSTAND THAT ENGLISH IS NOT MY NATIVE
13 LANGUAGE.

14 Q IT IS NOT?

15 A NO, IT IS NOT.

16 Q YOU ARE DOING WONDERFULLY WELL.

17 A I AM TRYING.

18 Q WHERE WAS THE NEXT STUFF YOU LOCATED THAT YOU
19 LOOKED AT, IRRESPECTIVE OF HOW WE DEEM YOU LOOKED AT IT?

20 A THERE WAS A BOOKCASE OR SHELF OR A STACK OF
21 PAPERS ON THE FLOOR IN THIS COMPUTER ROOM THAT YOU REFERRED
22 TO, WHICH SEEMED TO HAVE CORPORATE MATERIAL, SECRETARY
23 STATEMENT FORMS TO DO WITH CORPORATIONS, BIG BLACK OR BROWN
24 OR RED BINDER TYPES, TYPICAL CORPORATION MATERIAL.

25 Q BY THE WAY, DID YOU EVER SEE ANY MATERIALS LAYING
26 ON THE BED THAT HAD YELLOW POST-ITS ON THEM?

27 A I THINK THERE WAS BUT I CAN'T BE SURE.

28 Q ALL RIGHT. ASSUMING THAT YOU THINK THERE WERE

1 SUCH MATERIALS, DID YOU EVER SEE ANYBODY HANDLING THOSE
2 MATERIALS?

3 A WELL, I AM SURE THAT THEY WERE GLANCED AT, PUT
4 ASIDE.

5 Q I AM SORRY. DO YOU KNOW BY WHOM?

6 A WELL, IT WOULD HAVE BEEN EITHER MYSELF, DETECTIVE
7 ROZZI, SPECIAL AGENT BREILING OR OTHERS, IF THEY WERE IN FACT
8 THERE.

9 I HAVE A VAGUE RECOLLECTION THERE MIGHT HAVE
10 BEEN SOME THERE BUT I CAN'T BE SURE.

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1 Q DO YOU HAVE ANY RECOLLECTION AS TO WHAT THOSE
2 MATERIALS MIGHT HAVE CONSISTED OF, IF THEY WERE THERE?

3 A NO. I CAN'T.

4 Q ALL RIGHT. DO YOU RECALL ANYTHING ELSE THAT YOU
5 SAW IN THAT ROOM IN TERMS OF THE CONTENTS OR ANYTHING ELSE
6 YOU SAW? YOU TOLD ME THAT YOU SAW SOMETHING THAT LOOKED LIKE
7 A JURY ANALYSIS, YOU SAW SOMETHING THAT LOOKED LIKE CORPORATE
8 RECORDS. IS THERE ANYTHING ELSE THAT YOU SAW THERE?

9 A WELL, I THINK THAT THERE WERE COMPUTER DISKS OR
10 I THINK THEY ARE CALLED FLOPPY DISKS BUT I AM NOT SURE. BUT
11 THOSE WERE NOT EXAMINED.

12 THERE MIGHT HAVE BEEN OTHER DOCUMENTS AND PAPERS.
13 THERE WAS QUITE A BIT OF STUFF. I DID NOT LOOK AT THEM.

14 Q BY THE WAY, DID YOU KNOW WHETHER VOIR DIRE WAS
15 GOING ON OF PROSPECTIVE JURORS IN THIS CASE WHEN YOU WERE
16 MAKING THAT SEARCH?

17 A I THINK I WAS TOLD THAT THEY WERE IN JURY
18 SELECTION. BUT I DON'T KNOW IF I WAS TOLD THAT BEFORE,
19 DURING THE BRIEFING, DURING THE TIME THAT MR. CHIER ARRIVED
20 OR AFTERWARDS. BUT I DO KNOW NOW THAT SOMETIME ON THAT DAY,
21 I KNEW THAT MR. HUNT WAS INVOLVED IN JURY SELECTION.

22 Q ALL RIGHT. ANYTHING ELSE THAT YOU CAN RECALL
23 THAT YOU SAW IN THAT ROOM?

24 A ONLY SOME FURNITURE AND THE BED --

25 Q I MEAN OF WRITTEN DOCUMENTS OR OF A DOCUMENTARY
26 NATURE, SIR?

27 A THERE WERE BOOKS. THERE WERE A LOT OF BOOKS.
28 THERE WERE A LOT OF PAPERS.

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1 IT MIGHT EVEN BE FAIR TO SAY THAT THERE MIGHT
2 HAVE BEEN BOXES OR SACKS OF PAPERS. BUT I DIDN'T GO THROUGH
3 THEM BECAUSE ONCE I GOT TO THE CORPORATE PAPERS, I COULD NOT
4 GRASP THE RELEVANCE OF THEM TO THE SEARCH WARRANT.

5 SO I REALLY REFERRED THEM TO THE PEOPLE I ASSUMED
6 HAD MORE KNOWLEDGE OF WHAT THEY WERE ACTUALLY LOOKING FOR.

7 Q YOU SAID SOMETIME IN ADDRESSING MR. WAPNER, THAT
8 YOU SAW MATERIALS THAT CONSISTED OF BRIEF PHRASES. DID YOU
9 SAY THAT EARLIER?

10 A YES, SIR. I DID.

11 Q WHAT DID YOU MEAN BY THAT?

12 A THE STUFF THAT I SAW ON THE COMPUTER PRINTOUT,
13 A BRIEF PHRASE OR A STATEMENT OR IMPRESSION.

14 Q OKAY. DID YOU SEE ANYTHING OF THAT NATURE,
15 WITHOUT TELLING ME AT THIS TIME WHAT IT WAS, THAT WOULD BE
16 WHAT YOU WOULD CALL A HEADNOTE? DO YOU KNOW WHAT I MEAN BY
17 THAT REFERENCE?

18 A NO, SIR. I DON'T KNOW WHAT A HEADNOTE IS.

19 Q A KEY WORD?

20 A A KEY WORD?

21 Q IN OTHER WORDS, PRECEDING PERHAPS A PHRASE A
22 PARAGRAPH, THAT THERE WOULD BE A HEADING ABOVE IT THAT MIGHT
23 INDICATE TO YOU WHAT WAS ABOUT TO FOLLOW, LIKE A TITLE?

24 A NO. NOT AS YOU DESCRIBE IT, SIR. NO.

25 Q LET ME SHOW YOU WHAT I MEAN OR AN ILLUSTRATION.
26 I WILL SHOW IT TO THE PEOPLE FOR A MOMENT.

27 WHAT I PROPOSE YOUR HONOR, IS JUST BY COINCIDENCE,
28 I HAVE THE BARBER CASE IN MY HAND. I THOUGHT I WOULD APPROACH

1 THE WITNESS AND SHOW HIM WHAT HEADNOTES LOOK LIKE.

2 THE COURT: ALL RIGHT.

3 MR. BARENS: IT IS A COINCIDENCE THAT I HAVE BARBER
4 IN MY HAND.

5 Q OFFICER, YOU SEE LOOKING AT THE CAPTION, DO YOU
6 SEE THE FORMAT HERE? THESE ARE HEADNOTES. THEN THERE IS
7 SOME BOLDFACE AND THEN YOU KNOW, THERE IS THE REGULAR CASE.

8 A YES, SIR.

9 Q DID YOU SEE ANYTHING THAT AT ALL RESEMBLED THAT
10 TYPE OF FORMATTING?

11 A NO, SIR.

12 Q ALL RIGHT. YOU DIDN'T SEE ANYTHING WHERE THERE
13 WOULD BE A SINGLE WORD OR MAYBE A SERIES OF UP TO THREE WORDS
14 PRECEDING WHAT WOULD APPEAR TO BE A PARAGRAPH PRESENTATION?

15 A NOT LIKE THAT, NO, SIR.

16 Q COULD YOU TELL ME MORE WHAT IT LOOKED LIKE THEN,
17 IF IT DIDN'T LOOK LIKE THAT? WHAT DID IT LOOK LIKE IN AN
18 ALTERNATIVE SENSE?

19 A I SAW WHAT I WOULD DESCRIBE AS IN THE LEGAL
20 PROFESSION, RELATED WORDS OR PHRASES ON PIECES OF PAPER,
21 UNRELATED TO ANY PARAGRAPH OR SENTENCE OR STATEMENT OR
22 QUESTION OR ANYTHING.

23 IT WAS JUST A PHRASE THAT I WOULD ASSOCIATE WITH
24 THE LEGAL PROFESSION OR WITH THE CRIMINAL JUSTICE SYSTEM.

25 Q DID THERE EVER SEEM TO BE MORE THAN AN EXPRESSION
26 OF RANDOM THOUGHTS TO YOU?

27 A NO. IT WOULD BE MORE JUST SOMEBODY WAS CURIOUS
28 ABOUT THIS PARTICULAR ASPECT.

1 Q ALL RIGHT.

2 A BUT THAT IS AN OPINION I AM FORMING.

3 Q I UNDERSTAND, SIR. DO YOU KNOW HOW YOU HAPPENED
4 TO BE SELECTED TO GO AND EXECUTE THIS SEARCH?

5 A YES.

6 Q COULD YOU TELL US, SIR?

7 A AT THE TIME, I WAS THE ONLY AGENT IN THE SPECIAL
8 PROSECUTION'S UNIT IN LOS ANGELES.

9 Q DO YOU KNOW WHEN YOU SAY SPECIAL PROSECUTION,
10 IS THERE SOMETHING CALLED REGULAR PROSECUTIONS?

11 A NO, SIR. I WOULD BE HAPPY TO EXPLAIN IT TO YOU
12 IF YOU LIKE.

13 MR. BARENS: IT IS ALL RIGHT. I AM JUST CURIOUS.
14 EVERYONE IS SPECIAL. FBI GUYS ARE SPECIAL AGENTS. TAX PEOPLE
15 ARE SPECIAL AGENTS. THERE ARE NO REGULAR AGENTS ANY MORE.

16 THE WITNESS: WELL, THE NORMAL FUNCTION OF THE
17 ATTORNEY GENERAL'S OFFICE IS NOT TO BE A FRONTLINE
18 PROSECUTOR.

19 MR. BARENS: I WILL STIPULATE TO EVERYBODY BEING
20 SPECIAL, SIR. I HAVE NOTHING FURTHER OF THIS WITNESS.

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EXAMINATION

23 BY MR. WAPNER:

24 Q AGENT TULLENERS, LET'S NOT LEAVE IT HANGING IN
25 THE AIR. WOULD YOU PLEASE EXPLAIN WHAT A PROSECUTION UNIT,
26 SPECIAL PROSECUTION UNIT IS?

27 A SPECIAL PROSECUTIONS UNIT WAS CREATED BY THE
28 ATTORNEY GENERAL AT THAT TIME, GEORGE DEUKMEJIAN, NOW THE

1 GOVERNOR OF THE STATE OF CALIFORNIA, TO TAKE A MORE ACTIVE
2 ROLE IN WHAT WE CALL VERTICAL PROSECUTIONS FROM AN
3 INVESTIGATION, USING A TEAM CONCEPT OF AN ATTORNEY AND AN
4 INVESTIGATOR FROM THE GROUND UP, THROUGH THE INVESTIGATION,
5 THE INTERVIEWS OF THE COMPLAINANTS, THE MOTIONS, THE APPEALS,
6 THE PRELIMINARIES, THE TRIALS AND KEEPING AN ATTORNEY AND
7 AN INVESTIGATOR WHO IS KNOWLEDGEABLE ABOUT THE WHOLE CASE
8 FROM START TO FINISH.

9 PRIOR TO THAT, THE ATTORNEY GENERAL'S OFFICE WAS
10 DOING CIVIL AND SPECIAL TYPE CASES, RECUSAL CASES AND THAT
11 IS FROM THE DISTRICT ATTORNEY'S OFFICE AND CONFLICT CASES
12 AND THAT TYPE OF THING.

13 WE WEREN'T ACTUALLY AN ACTIVE PROSECUTION AGENCY.

14 HISTORICALLY, THE ATTORNEY GENERAL'S OFFICE
15 HANDLES APPEALS THAT HAVE GONE THROUGH THE LOCAL DISTRICT
16 ATTORNEY'S OFFICE.

17 SO WE BECAME A SPECIALIZED PROSECUTION UNIT
18 FOCUSING ON A CRITERIA IN 1979 THAT IS SPELLED OUT AS A
19 TRADITIONAL, CLASSIC, ORGANIZED CRIME AND TERRORIST GROUPS
20 AND PRISON GANGS AND MOTORCYCLE GANGS AND MAJOR VIOLATORS
21 AND MAJOR FRAUDS.

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1 Q NOW WE ARE GOING TO SLOW DOWN JUST A LITTLE.
2 I ONLY HAVE A COUPLE MORE QUESTIONS.

3 I DON'T WANT TO KNOW THE ACTUAL PHRASES THAT
4 YOU READ BUT, FOR THE SAKE OF CLARIFICATION, CAN YOU GIVE
5 THE COURT AN EXAMPLE OF THE TYPE OF PHRASES THAT YOU
6 SUGGESTED WERE THINGS THAT YOU SAID WERE ASSOCIATED WITH THE
7 CRIMINAL JUSTICE SYSTEM?

8 MR. BARENS: I AM GOING TO OBJECT, BECAUSE ANY
9 SUGGESTION HE MAKES NOW WILL RESULT IN A MISLEADING OF THE
10 COURT. IN OTHER WORDS, THE HYPOTHETICAL BEING CALLED FOR
11 IN THIS INSTANCE, YOUR HONOR, I DON'T SEE HOW IT COULD BE
12 RELEVANT BECAUSE EITHER WE HAVE SPECIFIC DEFENSE MATERIALS
13 OR WE DON'T.

14 IN OTHER WORDS, WHAT IS THE RELEVANCY OF A
15 HYPOTHETICAL ANSWER TO THAT QUESTION?

16 THE COURT: YOU WANT HIM TO ANSWER IT FOR YOU?

17 MR. WAPNER: I DO.

18 THE COURT: ANSWER IT FOR HIM, WILL YOU?

19 MR. WAPNER: THANK YOU, YOUR HONOR.

20 SO THE COURT WILL HAVE A BETTER IDEA OF PRECISELY
21 WHAT THE WITNESS WAS TRYING TO SAY.

22 MR. BARENS: HOW COULD YOU GET --

23 THE COURT: I WILL OVERRULE THE OBJECTION.

24 YOU MAY ANSWER. DO YOU HAVE THE QUESTION IN
25 MIND?

26 THE WITNESS: YES, YOUR HONOR.

27 THE COURT: YOU MAY ANSWER.

28 THE WITNESS: AGAIN, THIS IS JUST AN EXAMPLE OF WHAT

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1 I AM GOING TO TELL YOU I DIDN'T READ.

2 BUT IT WOULD BE PHRASES THAT SOMEBODY WOULD HAVE
3 WRITTEN ON A PIECE OF PAPER ABOUT INSANITY OR ENTRAPMENT,
4 PHRASES THAT ARE HISTORICALLY ASSOCIATED WITH THE CRIMINAL
5 JUSTICE SYSTEM OR A COURT PROCEEDING. I DID NOT SEE THOSE
6 WORDS.

7 MR. BARENS: A MOMENT, IF I MIGHT, YOUR HONOR.

8 YOU ARE AGAIN ASSURING ME, FOR THE RECORD, AND
9 THE JUDGE THAT --

10 MR. WAPNER: WAIT A MINUTE.

11 MR. BARENS: -- THOSE ARE NOT THE PHRASES YOU READ?

12 MR. WAPNER: MAY I INTERRUPT, YOUR HONOR?

13 MR. BARENS: I JUST THINK IT IS IMPORTANT THAT WE GET
14 THAT STRAIGHT.

15 MR. WAPNER: WE ARE ON REDIRECT EXAMINATION.

16 MR. BARENS: I MUST HAVE FORGOTTEN IT MYSELF.

17 MR. WAPNER: THE WITNESS IS ANSWERING A QUESTION AND
18 THE WITNESS IS INTERRUPTED BY COUNSEL AND IT IS NOT EVEN AN
19 OBJECTION AND COUNSEL IS MAKING A STATEMENT.

20 CAN WE PLEASE LET THE WITNESS EITHER FINISH OR
21 HAVE AN OBJECTION MADE FOR THE RECORD?

22 THE COURT: ALL RIGHT, YOU MAY CONTINUE WITH YOUR
23 ANSWER, IF YOU MAY.

24 THE WITNESS: I THINK THAT IS ABOUT IT, YOUR HONOR.

25 Q BY MR. WAPNER: WAS YOUR PRIMARY JOB DURING THE
26 EXECUTION OF THIS SEARCH WARRANT TO PROVIDE SECURITY AT THE
27 LOCATION?

28 A CORRECT. THAT WAS SPELLED OUT IN THE OPERATIONAL

1 PLAN AND THAT WAS WHAT I PERFORMED.

2 Q OF THE TIME THAT YOU SPENT AT THE LOCATION, WHAT
3 PERCENTAGE WAS SPENT SEARCHING AND WHAT PERCENTAGE WAS SPENT
4 PROVIDING SECURITY?

5 A I PROBABLY SEARCHED LESS THAN TEN PERCENT OF
6 THE TIME THAT I WAS THERE AND THAT IS JUST AN ESTIMATE.

7 MR. WAPNER: THANK YOU. I HAVE NO FURTHER QUESTIONS.

8 THE COURT: ANYTHING ELSE?

9 MR. BARENS: NOTHING, YOUR HONOR.

10 THE COURT: MR. TULLENERS, I HAVE BEEN ADMONISHING ALL
11 OF THOSE WITNESSES WHO WERE ON THE TEAM THAT EXECUTED THE
12 SEARCH WARRANT THAT IF THEY RECALL ANYTHING THAT THEY HAVE
13 READ, ANYTHING MORE THAN YOU HAVE ALREADY TESTIFIED TO, THEY
14 ARE NOT TO COMMUNICATE THAT TO ANYBODY CONNECTED WITH THE
15 PROSECUTION IN THIS CASE OR ANY WITNESSES THAT MAY BE CALLED
16 IN THE CASE. YOU WILL OBSERVE THAT ADMONITION, WILL YOU?

17 THE WITNESS: YES, I WILL, YOUR HONOR.

18 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

19 THE WITNESS: I WOULD LIKE TO APOLOGIZE FOR MY DRESS
20 TODAY.

21 THE COURT: THAT IS QUITE ALL RIGHT. WE WERE MORE
22 INTERESTED IN WHAT YOU WERE SAYING THAN WHAT YOU LOOKED LIKE.

23 THE WITNESS: THANK YOU.

24 MR. BARENS: YOUR HONOR, PRIOR TO THE NEXT WITNESS,
25 COULD WE TAKE A MOMENT?

26 THE COURT: ALL RIGHT.

27 MR. BARENS: THANK YOU, YOUR HONOR. YOUR HONOR, I
28 MIGHT SAY, THAT BASED ON THE LATENESS OF THE HOUR, THE DEFENSE

1 IS PREPARED TO CONCLUDE THIS TOMORROW, ALTHOUGH I REALIZE
2 IT WOULD BE UNUSUAL BUT OBVIOUSLY --

3 THE COURT: LET'S FINISH IT TOMORROW.

4 MR. BARENS: THANK YOU, YOUR HONOR.

5 THE COURT: I GOT THE PACKAGE. DID YOU GET A COPY OF
6 IT?

7 MR. WAPNER: WHILE WE ARE STILL ON THE RECORD, I HAVE
8 RECEIVED FROM THE ATTORNEY GENERAL'S OFFICE BY WAY OF AN
9 INVESTIGATOR FROM THE D.A.'S OFFICE, TWO BOXES, AND FOR THE
10 RECORD THEY ARE SEALED AND THEY WERE SENT TO MY ATTENTION.
11 ONE BOX IS LABELED FOR THE COURT AND ONE BOX IS LABELED FOR
12 ARTHUR BARENS.

13 AND MAY THE RECORD REFLECT THAT I AM PROVIDING
14 THE COURT NOW WITH ITS COPY AND MR. BARENS WITH HIS COPY?

15 THE COURT: YES, ALL RIGHT. DELIVER IT TO MR. BARENS.

16 MR. BARENS: YOUR HONOR, FOR THE RECORD, WE STILL HAVE
17 AN OBJECTION TO HIS HONOR PROCEEDING TO READ THEM, AS A MATTER
18 FOR THE RECORD.

19 THE COURT: ALL RIGHT, I HAVE HEARD THAT ABOUT 12 TIMES
20 NOW.

21 LET THE RECORD SHOW I HAVE GOTTEN THE BOX AND
22 I WILL NOW OPEN IT UP IN CHAMBERS AND NOT DISCLOSE IT TO
23 ANYBODY.

24 (RECESS.)

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1 THE COURT: ALL RIGHT. IT WILL BE STIPULATED THE
2 DEFENDANT IS PRESENT. COUNSEL ARE PRESENT.

3 MR. BARENS: I ACKNOWLEDGE FOR THE RECORD AND I HAVE
4 EXECUTED A RECEIPT TO YOUR CLERK FOR THE BIGGER BOX.

5 THE COURT REPORTER: THE BIGGER WHAT?

6 MR. BARENS: THAT IS OF NO SIGNIFICANCE. IF MR. WAPNER
7 HAS NO OTHER PEOPLE HE WOULD LIKE TO CALL AT THIS TIME --

8 MR. WAPNER: THAT'S RIGHT.

9 MR. BARENS: THANK YOU, SIR. I WILL GET MY NEXT WITNESS.
10 THE DEFENSE CALLS BOBBY ROBERTS.

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12 BOBBY ROBERTS,
13 CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND TESTIFIED
14 AS FOLLOWS:

15 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
16 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
17 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO
18 HELP YOU GOD.

19 THE WITNESS: I DO.

20 THE CLERK: STATE AND SPELL YOUR NAME FOR THE RECORD.

21 THE WITNESS: BOBBY, B-O-B-B-Y, ROBERTS, R-O-B-E-R-T-S.

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23 EXAMINATION

24 BY MR. BARENS:

25 Q MR. ROBERTS, BOBBY ROBERTS IS YOUR LEGAL NAME
26 AND NOT SOME APPELLATION THAT IS CREATED IN SOUTHERN CALIFORNIA?

27 A NO. THAT IS MY LEGAL NAME.

28 Q THANK YOU, SIR.

1 MR. ROBERTS, ARE YOU FAMILIAR WITH THE DEFENDANT
2 IN THIS MATTER, JOE HUNT?

3 A YES I AM.

4 Q AND HAVE YOU KNOWN HIM A NUMBER OF YEARS?

5 A YES.

6 Q AND HAS HE RESIDED IN YOUR RESIDENCE ON A
7 CONTINUOUS, UNINTERRUPTED BASIS SINCE NOVEMBER, 1985 UNTIL
8 THE PRESENT?

9 A YES.

10 Q AND YOU ARE WELL AWARE I SUBMIT, THAT MR. HUNT
11 IS INVOLVED IN HIS DEFENSE IN AN ALLEGED MURDER CASE?

12 A YES.

13 Q AND YOU WERE AWARE THROUGH CONVERSATIONS WITH
14 MR. HUNT, THAT HE WAS ACTIVELY PARTICIPATING IN THE PREPARATION
15 OF THE DEFENSE MATERIALS ON THIS CASE?

16 A YES.

17 Q AND WHERE WOULD HE BE ACTUALLY LOCATED IN YOUR
18 HOME DOING THOSE ACTIVITIES?

19 A WE HAVE TWO SPARE BEDROOMS IN OUR HOME THAT ARE
20 ADJOINING ROOMS. AND IN BOTH OF THOSE ROOMS IS WHERE HE KEEPS
21 HE SLEEPS AND HE ALSO HAS MADE ONE OF THEM INTO AN OFFICE.

22 Q AND THE ONE YOU ARE REFERENCING AS BEING MADE
23 INTO AN OFFICE WOULD CONTAIN A COMPUTER?

24 A YES.

25 Q ALL RIGHT. FOR FUTURE PURPOSES, I WILL CALL THAT
26 THE COMPUTER ROOM AND I WILL CALL THE OTHER ONE THE BEDROOM.
27 DO YOU UNDERSTAND THAT REFERENCE?

28 A YES I DO.

1 Q MR. ROBERTS, DID MR. HUNT TELL YOU THAT HE WAS
2 PREPARING ON THE COMPUTER, CERTAIN MATERIALS REQUESTED BY
3 HIS ATTORNEY?

4 A YES.

5 Q AND DID HE TELL YOU THAT HE WAS ALSO PREPARING
6 MATERIALS INDEPENDENTLY ON HIS OWN, FOR USE IN THIS TRIAL?

7 A YES.

8 Q NOW, HE DID NOT ASK YOU TO READ ANY OF THOSE,
9 DID HE?

10 A NO.

11 Q NOW, A TIME CAME ON OR ABOUT JANUARY, 1987, WHEN
12 THERE WAS A SEARCH WARRANT AT YOUR HOUSE?

13 A YES.

14 Q AND WERE THERE A VARIETY OF POLICE PERSONNEL THAT
15 CAME TO YOUR HOUSE?

16 A YES.

17 Q AND DID YOU RECOGNIZE ANY OF THEM FROM PRIOR
18 EXPERIENCE THAT YOU HAVE HAD?

19 A YES.

20 Q AND WHAT OFFICER DID YOU RECOGNIZE?

21 A OSCAR BREILING, WHO I HAD MET ONCE BEFORE. AND
22 I DON'T RECALL THE NAME OF THE OTHER OFFICER THAT I KNEW FROM
23 THIS COURT, ACTUALLY.

24 Q WAS THERE AN OFFICER NAMED LES ZOELLER THERE?

25 A YES. THAT IS THE OFFICER I KNEW.

26 Q YOU KNEW HIM TO BE THE CHIEF INVESTIGATING OFFICER
27 IN THE CASE IN WHICH MR. HUNT IS IN THIS COURT?

28 A YES.

1 Q NOW, WHO WAS THE FIRST OFFICER WITH WHOM YOU SPOKE
2 ON JANUARY 8?

3 A OSCAR BREILING.

4 Q AND WHAT DID YOU SAY WHEN YOU FIRST ENCOUNTERED
5 HIM, IF YOU RECALL, SIR?

6 A I WAS IN SHOCK. SO I DON'T REMEMBER WHAT I SAID.
7 BUT HE WAS QUITE POLITE AND -- I DON'T RECALL
8 THE SPECIFIC WORDS THAT HE SAID.

9 Q NOW, MR. BREILING PREPARED A REPORT ON THAT SEARCH
10 AND LATER TESTIFIED IN THIS COURTROOM, TO THE EFFECT THAT
11 WHEN HE ENCOUNTERED YOU, YOU SAID "I KNOW. WE HAVE BEEN
12 EXPECTING THIS. YOU WON'T FIND WHAT YOU ARE LOOKING FOR IN
13 THIS HOUSE."

14 DID YOU -- YOUR HONOR, I AM READING FROM PAGE 3.

15 THE COURT: I HAVE READ IT.

16 MR. BARENS: THANK YOU, YOUR HONOR.

17 Q DID YOU SAY THAT STATEMENT TO MR. BREILING?

18 A I DON'T REMEMBER SAYING THAT.

19 Q DID YOU SAY ANYTHING --

20 THE COURT: DO YOU SAY THAT YOU DID NOT SAY IT?

21 THE WITNESS: I DID NOT SAY THAT.

22 THE COURT: PARDON ME? YOU SAY YOU DIDN'T STATE THAT
23 AT ALL IN SUBSTANCE OR THOSE WORDS?

24 THE WITNESS: NO.

25 THE COURT: IS THAT RIGHT?

26 THE WITNESS: I DIDN'T SAY THAT I WAS EXPECTING HIM.

27 Q BY MR. BARENS: DID YOU SAY ANYTHING THAT EVEN
28 REMOTELY WOULD BE SUGGESTIVE OF THE STATEMENT THAT WE HAVE

1 BEEN EXPECTING THIS?

2 A NO. I DID NOT.

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1 Q DID YOU IN ANY WAY OR FASHION EXPECT THE SEARCH
2 THAT OCCURRED AT YOUR HOUSE?

3 A ABSOLUTELY NOT.

4 Q ALL RIGHT. AND YOU NEVER MADE THAT STATEMENT
5 OR ANY STATEMENT THAT COULD BE INTERPRETED AS HAVING THAT
6 MEANING?

7 A THAT IS CORRECT, I DIDN'T SAY THAT.

8 Q NOW, DID YOU SAY, "YOU WON'T FIND WHAT YOU ARE
9 LOOKING FOR IN THIS HOUSE?"

10 A NO, I DID NOT.

11 Q DID YOU KNOW WHAT THEY WERE LOOKING FOR?

12 A NO.

13 Q ALL RIGHT. AND DID YOU LATER GO UPSTAIRS WHERE
14 OFFICERS WERE SEARCHING?

15 A YES.

16 Q AND DID YOU GO INTO THE COMPUTER ROOM?

17 A YES.

18 Q AND WHOM DID YOU SEE PRESENT IN THE COMPUTER
19 ROOM?

20 A BREILING WAS IN THE COMPUTER ROOM BUT BREILING
21 WAS ALL OVER THE HOUSE. BUT WHEN I DID GO UP THERE, HE WAS
22 UP THERE AND THERE WAS ANOTHER OFFICER BY THE NAME OF BOB
23 SOMEBODY, WHO WAS FROM THE HOLLYWOOD DIVISION.

24 Q COULD THAT HAVE BEEN AN OFFICER NAMED ROZZI,
25 WOULD THAT REFRESH YOUR RECOLLECTION?

26 A BOB ROZZI, YES, THAT IS WHO IT WAS.

27 Q AND WAS OFFICER ZOELLER IN THE COMPUTER ROOM?

28 A YES.

1 Q NOW, IN THE DECLARATION YOU FILED IN THIS COURT,
2 YOU STATED THAT YOU SAW OFFICER BREILING AND OFFICER ZOELLER
3 READING DOCUMENTS IN JOE'S TRASH BASKET?

4 A UH-HUH.

5 Q IS THAT STATEMENT TRUE AND ACCURATE?

6 A THAT'S ACCURATE.

7 Q COULD YOU DESCRIBE TO ME THE APPEARANCE OF THE
8 DOCUMENTS THAT WERE IN THE TRASH CAN -- THAT IS A BIT AWKWARD,
9 ISN'T IT?

10 COULD YOU DESCRIBE TO ME WHETHER OR NOT THE
11 MATERIALS IN THE TRASH CAN APPEARED TO HAVE BEEN PRODUCED
12 ON A COMPUTER?

13 A IT WAS -- IT WAS NORMAL TRASH. IT WAS COMPUTER
14 PAPER TRASH, YOU KNOW, THAT IS HOW I REMEMBERED IT TO BE.

15 Q COULD YOU RECALL HOW MANY SHEETS IT APPEARED
16 TO CONSIST OF OR NOT?

17 A NO, BECAUSE THE TRASH CAN WAS FULL UP WITH TRASH.
18 IT WAS STUFFED.

19 Q DID YOU SEE BOTH OFFICERS BREILING AND ZOELLER
20 IN TURN LOOKING AT THOSE PAPERS?

21 A I SAW ZOELLER AND BOB, WHATEVER HIS NAME WAS.

22 Q ROZZI.

23 A ROZZI, AND BREILING LOOKED AT EVERYTHING IN THAT
24 ROOM, PRACTICALLY.

25 Q DID YOU OBSERVE THEM LOOKING ABOUT THE ROOM AT
26 ALL OF THE PAPERS IN THE ROOM?

27 A YES.

28 Q DID THEY APPEAR TO BE READING THEM, AND IN THAT

1 QUESTION, MR. ROBERTS, I AM DIFFERENTIATING THE EXPRESSION
2 "GLANCE" VERSUS THE EXPRESSION "READ;" DO YOU UNDERSTAND WHAT
3 I MEAN IN THAT CONTEXT?

4 A UH-HUH, YES.

5 Q DID THEY APPEAR TO YOU TO BE READING THE TYPED
6 MATERIALS OR GLANCING AT THEM, SIR?

7 A I FOUND -- MY RECOLLECTION IS THAT ZOELLER WAS
8 DOING THE READING.

9 Q ZOELLER APPEARED TO BE READING?

10 A YEP.

11 Q DID THE OTHER GENTLEMEN APPEAR TO BE GLANCING --

12 A THEY WERE READING AND GLANCING. THEY WERE MOVING
13 FAST.

14 Q NOW, MR. ROBERTS, YOU UNDERSTAND YOU ARE UNDER
15 OATH HERE?

16 A YES.

17 Q MR. ROBERTS, HAVE I OR MR. CHIER OR MR. HUNT
18 IN ANY WAY STRUCTURED OR SUGGESTED YOUR TESTIMONY?

19 A NOT IN ANY WAY.

20 Q MR. ROBERTS, IT IS OBVIOUS TO THE COURT AND MYSELF,
21 BASED ON PRIOR KNOWLEDGE, THAT I AM SURE THE COURT IS AT LEAST
22 GENERALLY AWARE OF, THAT YOU HAVE SOME ASSOCIATION AND
23 AFFINITY FOR THE DEFENDANT. MR. ROBERTS, WOULD YOUR ASSOCIATION
24 WITH THE DEFENDANT CAUSE YOU TO BE UNTRUTHFUL, OR TO PUT IT
25 PLAINLY, LIE ON HIS BEHALF IN THIS INSTANCE?

26 A I WOULD DEFINITELY NOT LIE ON HIS BEHALF.

27 MR. BARENS: NOTHING FURTHER, YOUR HONOR.

28 THE COURT: ALL RIGHT.

EXAMINATION

1
2 BY MR. WAPNER:

3 Q MR. ROBERTS, WHEN YOU FIRST SAW THE SEARCHING
4 OFFICERS, THEY WERE IN THE KITCHEN?

5 A NO, THEY WERE NOT.

6 WHEN I FIRST SAW THEM, THEY CAME IN THROUGH THE
7 KITCHEN. WHEN I FIRST SAW THEM, I WAS IN KIND OF THE ENTRANCE
8 HALL OF THE HOUSE.

9 Q ALL RIGHT. DID YOUR MAID CALL YOU UPSTAIRS?

10 A NO -- I WAS UPSTAIRS -- SHE CALLED ME ON THE
11 TELEPHONE.

12 Q AND DID YOU COME AND MEET THE OFFICERS?

13 A YES.

14 Q IN THE ENTRY HALL?

15 A BY THE -- THEY CAME IN THROUGH THE KITCHEN AND
16 BY THE TIME I GOT TO WHERE WE CAN MEET, IT WAS APPROXIMATELY
17 THE ENTRANCE HALL OF THE HOUSE.

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1 Q DID YOU HAVE A DISCUSSION WITH OSCAR BREILING
2 ABOUT THE FACT HE WAS GOING TO HAVE TO LOOK AROUND THE HOUSE
3 TO FIND OUT WHO ELSE WAS HOME BEFORE HE COULD ACTUALLY DO
4 THE SEARCH?

5 A OSCAR BREILING ASKED IF MY WIFE WAS HOME AND
6 I TOLD HIM SHE WAS UP IN THE BEDROOM.

7 I WAS STILL IN MY PAJAMAS, BY THE WAY.

8 AND HE ASKED ME IF I COULD -- IF I COULD TAKE
9 HIM UP TO SEE MY WIFE. WE WENT UP TO HER BEDROOM.

10 THEY PUT ANOTHER OFFICER IN THAT BEDROOM AND
11 SHE WAS IN HER PAJAMAS, AND THEY ASKED HER IF SHE WOULD COME
12 DOWNSTAIRS.

13 AND PUT HER IN THE KITCHEN AND THEY PUT ME IN
14 AN OFFICE.

15 Q AND DID THEY TELL YOU THAT THEY WERE PUTTING
16 YOU IN THE OFFICE UNTIL THEY COULD GO AROUND THE REST OF THE
17 HOUSE AND FIND OUT IF THERE WAS ANYONE ELSE THERE?

18 A I DON'T RECALL THAT.

19 THEY JUST WANTED HER AND I TO BE SEPARATED.

20 Q WERE YOU PRECLUDED FROM GOING ANYWHERE IN THAT
21 HOUSE DURING THE SEARCH?

22 A AT FIRST, THEY TOLD ME THEY WANTED ME TO STAY
23 IN THE OFFICE AND THEY WANTED HER TO STAY IN THE KITCHEN.

24 THEN AFTER A WHILE, WE JUST STARTED BROWSING
25 AROUND AND BEFORE YOU KNOW IT, WE WERE ALL OVER THE HOUSE
26 WITH ALL OF THE OTHER POLICEMEN AND I.

27 NOW, I ALSO SHOWED BREILING -- HE ASKED ME IF
28 I HAD A VAULT IN THE HOUSE AND I SAID I DID AND IT WAS DOWN

1 IN OUR BASEMENT AND I TOOK HIM DOWN IN THE BASEMENT AND WHICH
2 HE LOOKED THROUGH MY VAULT. HE WENT THROUGH ALL OF OUR
3 LUGGAGE, SPENT A LOT OF TIME IN THE BASEMENT WITH HE AND I
4 DOWN THERE BY MYSELF.

5 Q WHEN YOU AND AGENT BREILING WENT TO THE VAULT,
6 WAS THE VAULT OPEN?

7 A MY VAULT, YES SIR, WAS OPEN.

8 Q IT WAS ALREADY OPEN WHEN HE GOT DOWN THERE?

9 A YES, YES.

10 Q DID YOU TELL HIM THAT IT HAD YOUR PERSONAL
11 PAPERS IN IT?

12 A YES, I DID.

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1 Q AND DID HE SAY HE WOULD TAKE YOUR WORD FOR THAT?

2 A NO. I SHOWED HIM SOME TYPE OF PAPER AND THEN
3 HE SAID OKAY.

4 Q DID YOU VOLUNTEER TO SHOW HIM THE PAPERS?

5 A YES. I DID.

6 Q DID YOU TELL HIM WHAT THEY WERE BEFORE YOU SHOWED
7 THEM TO HIM?

8 A DID I TELL HIM? JUST THAT THEY WERE MY PERSONAL
9 PAPERS.

10 Q AND --

11 THE COURT: DID HE ASK YOU WHETHER OR NOT -- DID HE
12 SAY HE WOULD TAKE YOUR WORD FOR IT WHEN YOU TOLD HIM WHAT
13 IT WAS?

14 THE WITNESS: IT HAD NOTHING TO DO WITH THE VAULT. THERE
15 WERE PAPERS THAT HAD TO DO WITH MY BUSINESS THAT WERE UPSTAIRS
16 IN SOME BOXES.

17 HE SAID, "WHAT ARE THOSE PAPERS?"

18 AND I SAID, "THESE ARE MY BUSINESS PAPERS."

19 HE SAID, "OKAY. WE DON'T HAVE TO LOOK THROUGH
20 THOSE."

21 Q BY MR. WAPNER: HE SEEMED SATISFIED WITH YOUR
22 REPRESENTATIONS THEY WERE IN FACT, YOUR BUSINESS PAPERS?

23 A YES.

24 Q DID YOU SHOW HIM A TYPEWRITER DOWNSTAIRS, ALSO?

25 A I DIDN'T SHOW HIM THE TYPEWRITER. WE WERE IN
26 THE BASEMENT. AS WE WERE WALKING OUT OF THE BASEMENT, HE
27 SAID, "WHAT IS THAT?" OBVIOUSLY, I SAID THAT IT WAS A
28 TYPEWRITER.

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1 HE SAID, "WHOSE TYPEWRITER IS THAT?"

2 I SAID THAT IT WAS MY TYPEWRITER THAT I HAD HAD
3 FOR YEARS, THAT I HAVE HAD AROUND THE HOUSE FOR YEARS.

4 HE ASKED ME FOR THE BALL OF THE TYPEWRITER.
5 I FRANKLY DON'T KNOW HOW TO TAKE THE BALL OFF THE TYPEWRITER
6 BECAUSE I NEVER ACTUALLY USED THE TYPEWRITER. THAT WAS THE
7 EXTENT OF THAT.

8 Q DID HE TAKE THE BALL AND THE RIBBON?

9 A I DON'T KNOW -- NOT IN FRONT OF ME.

10 Q AND DID YOU --

11 THE COURT: PARDON ME. HOW MANY TYPEWRITERS DO YOU
12 HAVE IN THE HOUSE?

13 THE WITNESS: THAT'S THE ONLY TYPEWRITER THAT I HAVE.

14 THE COURT: THAT'S THE ONLY ONE?

15 THE WITNESS: YES. IT IS A TYPEWRITER THAT WE DON'T
16 USE.

17 Q BY MR. WAPNER: DID YOU GO UPSTAIRS AT SOME LATER
18 POINT?

19 A YES.

20 Q WERE YOU WITH AGENT BREILING CONTINUOUSLY UNTIL
21 YOU STOPPED PARTICIPATING IN THIS AND LET YOUR SON TAKE OVER?

22 A NO. I WAS WITH AGENT BREILING UPSTAIRS. THEN
23 AFTER WE SPENT SOME TIME IN THE BASEMENT, HE THEN WANTED ME
24 TO SHOW HIM EVERYTHING THAT WAS GOING ON IN THE LIVING ROOM.

25 NOW, WHILE I WAS IN THE LIVING ROOM WITH HIM,
26 THERE WERE MANY POLICE OFFICERS UPSTAIRS IN THOSE BEDROOMS.

27 Q HOW DO YOU KNOW THAT?

28 A WELL, BECAUSE WHEN I WENT UP THERE, THEY WERE

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1 THERE.

2 Q BUT, HOW DO YOU KNOW THEY WERE THERE WHEN YOU
3 WERE IN THE LIVING ROOM?

4 A WELL, I SAW THEM ALL GO UP.

5 Q WHEN DID THEY GO UP?

6 A WELL, TEN PEOPLE CAME INTO MY HOUSE. BREILING
7 TOOK ME DOWN TO THE BASEMENT. THESE NINE OTHER PEOPLE WERE
8 UPSTAIRS SOMEWHERE.

9 Q YOU DON'T KNOW WHERE THOUGH, DO YOU?

10 A I ONLY DISCOVERED THEY WERE THERE WHEN I WENT
11 UP THERE.

12 Q OKAY. SO WHEN YOU WERE IN THE LIVING ROOM, YOU
13 ARE JUST SURMISING WHERE THEY WERE?

14 A I AM JUST SURMISING WHERE THEY WERE.

15 Q RIGHT. BECAUSE YOU DIDN'T SEE THEM, RIGHT?

16 A THAT'S ACCURATE. I DID NOT SEE THEM.

17 Q DID YOU GO AROUND THE DOWNSTAIRS WITH OSCAR
18 BREILING?

19 A I SHOWED HIM MY -- ALL OF THE LIVING ROOM AND
20 OPENED UP ALL OF THE DOORS AND THINGS LIKE THAT.

21 Q DID YOU GO INTO THE BAR THAT YOU WERE USING AS
22 AN OFFICE?

23 A YES.

24 Q DID YOU SHOW HIM THROUGH THERE?

25 A NO.

26 Q DID HE SEEM SATISFIED WITH YOUR REPRESENTATIONS
27 THAT THAT WAS IN FACT, YOUR OFFICE?

28 A WELL, WE WERE ON OUR WAY INTO THAT OFFICE AND

4
1 YOU CALLED HIM ON THE PHONE. NO, ARTHUR BARENS CALLED HIM
2 ON THE TELEPHONE. WE NEVER GOT TO THAT OFFICE.

3 Q YOU MEAN, HE NEVER LOOKED -- YOU NEVER SHOWED
4 HIM THAT ROOM THAT WAS YOUR ROOM?

5 A SHOWED BREILING THAT ROOM?

6 Q RIGHT.

7 A NO.

8 Q AND DID YOU THEN GO -- WELL, WHAT HAPPENED AFTER
9 YOU WENT INTO THE LIVING ROOM AND THEN AT SOME POINT, THERE
10 WAS A PHONE CALL.

11 A YES.

12 Q DO YOU KNOW WHO WAS THERE, WHO CALLED THE COURTROOM?

13 A I CALLED ARTHUR BARENS' OFFICE.

14 Q WHEN?

15 A WHEN BREILING AND THE OFFICER CAME TO MY HOME,
16 I WAS IN THAT OFFICE THAT HE PUT ME IN. AND WHILE I WAS
17 SITTING IN THAT OFFICE, I SAID, "I AM GOING TO CALL ARTHUR
18 BARENS' OFFICE AND SEE IF THIS CORRECT."

19 SO, I CALLED HIS -- I THINK IT WAS HIS ASSOCIATE
20 THAT I SPOKE TO. HER NAME IS JAN.

21 Q WOULD IT BE FAIR TO SAY THAT YOU DID THAT ALMOST
22 IMMEDIATELY?

23 A NO. IT WAS NOT IMMEDIATELY.

24 Q HOW LONG DID IT TAKE YOU?

25 A TEN OR FIFTEEN MINUTES INTO THIS WHOLE THING.

26 Q IN FACT, YOU SAID THAT YOU WERE IN SHOCK WHEN
27 THIS HAPPENED?

28 A THAT IS WHAT I SAID.

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1 Q AND DIDN'T YOU ALSO SAY THAT YOU REALLY DON'T
2 REMEMBER WHAT MR. BREILING TOLD YOU WHEN HE FIRST GOT THERE?

3 A MR. BREILING WHEN HE FIRST GOT THERE, TOLD ME
4 THAT THEY WERE GOING TO SEARCH OUR HOME. THEY GAVE ME A
5 SEARCH WARRANT.

6 Q ALL RIGHT. DO YOU REMEMBER ANYTHING ELSE THAT
7 HE SAID?

8 A HE WANTED ME TO GO UPSTAIRS AND BRING THE OTHER
9 OFFICERS AND HIMSELF TO THE BEDROOM WHERE MY WIFE WAS.

10 Q WHEN YOU FINALLY -- WELL, YOU CALLED MR. BARENS'
11 OFFICE ON THE PHONE, RIGHT?

12 A RIGHT.
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1 Q HOW LONG WAS IT BETWEEN THE TIME THAT YOU PLACED
2 THAT PHONE CALL AND THE TIME THAT YOU GOT A CALL BACK FROM
3 MR. BARENS?

4 A I WOULD SAY ABOUT FIFTEEN MINUTES. NOW, I DIDN'T
5 GET THE PHONE CALL. WHEN BARENS CALLED BACK, HE SPOKE TO
6 BREILING. HE DIDN'T SPEAK TO ME.

7 Q SO IT TOOK FIFTEEN MINUTES FROM THE TIME YOU MADE
8 THE --

9 A IT WAS ABOUT AS MUCH TIME AS IT TOOK FOR HIM TO
10 GO THROUGH THAT BASEMENT AND LOOK THROUGH THAT VAULT AND GO
11 THROUGH THE LIVING ROOM.

12 WE WERE IN THE LIVING ROOM AND WE WERE NOW HEADED
13 TO THE OTHER PARTS OF THE HOUSE THAT HE WANTED ME TO SHOW
14 HIM. THEN HE GOT HIS PHONE CALL.

15 Q WHAT I AM ASKING YOU IS, IN TERMS OF TIME. YOU
16 SAY IT TOOK FIFTEEN MINUTES AFTER THEY GOT THERE FOR YOU TO
17 PLACE THE CALL AND THEN ANOTHER FIFTEEN MINUTES BEFORE YOU
18 GOT A CALL BACK. IS THAT RIGHT?

19 A I THINK SO.

20 MR. BARENS: THE WITNESS NEVER INDICATED THAT HE GOT
21 A CALL BACK.

22 THE COURT: WELL, HE IS ASKING HIM.

23 THE WITNESS: I THINK IT WAS ABOUT THAT MUCH TIME.

24 Q BY MR. WAPNER: AND HOW LONG AFTER THAT PHONE
25 CALL CAME BACK INTO THE HOUSE, WAS IT BEFORE YOU WENT UPSTAIRS?

26 A WHEN HE WAS ON THE PHONE, I WAS KIND OF PRETTY
27 CLOSE TO WHERE HE WAS WHILE I WAS ON THE PHONE. THEN I JUST
28 WENT UPSTAIRS.

1 Q HE WAS SPEAKING ON THE PHONE AND YOU WENT UPSTAIRS?

2 A YES.

3 Q HOW LONG AFTER THE PHONE CALL WAS IT THAT YOU
4 WENT UPSTAIRS?

5 A A FEW MINUTES.

6 Q FIVE MINUTES?

7 A A FEW MINUTES. TWO MINUTES.

8 Q OKAY. AND WHEN YOU WENT UPSTAIRS, WHERE UPSTAIRS
9 DID YOU GO?

10 A I WENT INTO BOTH THOSE BEDROOMS, THE COMPUTER
11 ROOM AND I WENT INTO THE OTHER BEDROOM AND I ALSO WENT INTO
12 THE BEDROOM, YOU KNOW --

13 Q MR. ROBERTS, LET'S TRY TO TAKE IT IN SEQUENCE.
14 I WON'T ARGUE WITH YOU IF YOU DON'T ARGUE WITH ME.

15 MR. BARENS: I WILL INDICATE THAT THE WITNESS WAS NOT
16 ARGUING WITH COUNSEL. WAS HE, YOUR HONOR?

17 THE COURT: YOU ARE MAKING AN OBSERVATION. YOU ARE
18 NOT ASKING HIM ANYTHING.

19 MR. BARENS: I AM ASKING YOUR HONOR THAT THE RECORD
20 REFLECT --

21 MR. WAPNER: IF THERE IS NO OBJECTION, CAN WE STOP WITH
22 THE SPEECHES AND COUNSEL'S OBSERVATIONS.

23 MR. BARENS: I WILL MAKE AN OBJECTION THAT HE HAS
24 MISQUOTED THE WITNESS'S DEemeanOR AND THE TESTIMONY AS BEING
25 ARGUMENTATIVE. IT WAS NOT THAT WAY, YOUR HONOR.

26 THE COURT: OBJECTION OVERRULED.

27 MR. WAPNER: THANK YOU.

28 Q MR. ROBERTS, WHEN YOU FIRST WENT UPSTAIRS, WHERE

1 DID YOU GO?

2 A I DON'T RECALL WHAT ROOM I WENT INTO BECAUSE THOSE
3 WERE TWO ADJOINING ROOMS.

4 Q OKAY. OF THE TWO ADJOINING ROOMS, THE FIRST ONE
5 THAT YOU WENT INTO, HOW MUCH TIME DID YOU SPEND IN THERE?

6 A I SPENT A LOT OF TIME. FROM THAT TIME ON, I SPENT
7 A LOT OF TIME IN BOTH THOSE ROOMS.

8 Q WELL, ARE YOU ABLE TO REMEMBER NOW WHICH OFFICERS
9 WERE --

10 A YES.

11 Q MR. ROBERTS, PLEASE LET ME FINISH THE QUESTION.
12 PLEASE.

13 A OKAY. SORRY.

14 Q ARE YOU ABLE TO REMEMBER NOW, WHICH OFFICERS WERE
15 IN WHICH ROOMS?

16 A YES.

17 Q ALL RIGHT. AND WHICH OFFICERS WERE IN THE ROOM
18 THAT WE ARE CALLING THE BEDROOM?

19 A THE OFFICER THAT WAS JUST ON THE STAND. I DON'T
20 RECALL HIS NAME.

21 Q MR. TULLENERS?

22 A YES.

23 Q WAS HE EVER IN THAT ROOM THAT YOU CALLED THE
24 COMPUTER ROOM?

25 A I NEVER SAW HIM IN THAT ROOM.

26 Q AND WHO ELSE WAS IN THAT BEDROOM BESIDES
27 MR. TULLENERS?

28 A MY DAUGHTER.

1 Q WHAT WAS YOUR DAUGHTER DOING?

2 A SHE WAS JUST LAYING IN BED.

3 Q NOW --

4 A SITTING ON THE BED AND LAYING IN THE BED AND HE
5 WAS WALKING AROUND THE ROOM, SEARCHING THINGS OUT.

6 Q OKAY. MAYBE WE ARE NOT UNDERSTANDING EACH OTHER.
7 MAYBE WE ARE.

8 THERE ARE TWO ROOMS THAT ARE ADJOINING. ONE HAS
9 A COMPUTER IN IT, RIGHT?

10 A YES.

11 Q ALL RIGHT. THAT ROOM WE ARE CALLING THE COMPUTER
12 ROOM?

13 A RIGHT.

14 Q AND THE OTHER ROOM WE ARE CALLING THE BEDROOM?

15 A RIGHT.

16 Q WAS YOUR DAUGHTER IN THE BEDROOM OR THE COMPUTER
17 ROOM?

18 A THE BEDROOM.

19 Q AND BESIDES YOUR DAUGHTER AND MR. TULLENERS, WHO
20 ELSE WAS IN THE BEDROOM?

21 A AT THAT TIME, THAT'S ALL.

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1 Q DID YOUR DAUGHTER STAY IN THE BEDROOM THE ENTIRE
2 TIME OR DID SHE GO IN THE OTHER ROOM AT SOME POINT?

3 A SHE STAYED MOST OF THE ENTIRE TIME IN THE BEDROOM.

4 Q BUT YOU DON'T REMEMBER WHETHER YOU WERE IN THE
5 BEDROOM FIRST OR THE COMPUTER ROOM FIRST, DO YOU?

6 A NO, I DON'T REMEMBER.

7 Q AND DID YOU KEEP GOING BACK AND FORTH BETWEEN
8 THE BEDROOM AND THE COMPUTER ROOM?

9 A YES.

10 Q WHY?

11 A I WAS JUST CONCERNED AND FASCINATED BY THE WHOLE
12 PROCESS.

13 Q WAS THERE MORE ACTIVITY GOING ON IN THE BEDROOM
14 OR THE COMPUTER ROOM?

15 A THERE WERE MORE PEOPLE IN THE BEDROOM --
16 NO, NO. THERE WERE MORE PEOPLE IN THE COMPUTER ROOM THAN
17 THE BEDROOM.

18 Q WHEN YOU SAY YOU WERE FASCINATED BY THE WHOLE
19 PROCESS, WHAT WAS YOUR FOCUS BASICALLY IN TERMS OF -- WHAT
20 WAS THE REASON THAT YOU WERE GOING BACK AND FORTH LOOKING
21 AT WHAT WAS GOING ON? WAS IT CURIOSITY, WAS IT DONE WITH
22 THE IDEA OF BEING A POTENTIAL WITNESS? WAS IT SOME OTHER
23 REASON?

24 A I WAS CURIOUS.

25 MR. BARENS: OBJECTION. ASKED AND ANSWERED, YOUR HONOR.
26 IT IS THE SAME QUESTION.

27 THE COURT: LET HIM ANSWER IT AGAIN. YOU CAN ANSWER
28 IT.

1 THE WITNESS: PARDON ME, SIR?

2 THE COURT: YOU MAY ANSWER IT.

3 THE WITNESS: I WAS CURIOUS.

4 Q BY MR. WAPNER: AND WHEN YOU WENT INTO THE
5 COMPUTER ROOM THE FIRST TIME YOU WERE IN THERE --

6 LET ME ASK YOU SO MAYBE WE ARE CLEAR: DID YOU
7 KEEP GOING BACK AND FORTH BETWEEN THE TWO ROOMS?

8 A YES.

9 Q THE FIRST TIME THAT YOU WENT INTO THE COMPUTER
10 ROOM, WHAT WAS GOING ON?

11 A THERE WAS -- THIS WAS THE FIRST TIME I HAD SEEN
12 LES ZOELLER -- IS THAT CORRECT, IS THAT HIS NAME, LES?

13 Q YES.

14 A OKAY, SO HE WAS IN THERE. ANOTHER OFFICER BY
15 THE NAME OF BOB SOMEBODY WAS IN THERE AND --

16 Q HOW DID YOU FIND OUT THESE NAMES, BY THE WAY?

17 A I ASKED THEM.

18 Q ALL RIGHT. AND WHO ELSE WAS IN THERE?

19 A AND BY THAT TIME, BREILING HAD GOTTEN OFF THE
20 PHONE WITH ARTHUR BARENS AND HE WAS UP IN THAT ROOM NOW.

21 Q SO WHEN YOU WENT INTO THE COMPUTER ROOM FOR THE
22 FIRST TIME, OSCAR BREILING WAS THERE?

23 A YES --

24 NO, NO. OSCAR BREILING WAS ON THE PHONE.

25 LES ZOELLER WAS THERE.

26 Q OKAY. I THOUGHT YOU HAD JUST SAID THAT BY THAT
27 TIME, BREILING HAD GOTTEN OFF THE PHONE AND HE WAS IN THERE.

28 A NO, NO.

1 I WAS THERE. HE HAD GOTTEN OFF THE PHONE AND
2 HE CAME UP THERE. HE JOINED US.

3 Q OKAY. HOW LONG AFTER YOU WENT INTO THAT ROOM
4 DID AGENT BREILING GET IN THERE?

5 A TWO OR THREE MINUTES LATER.

6 Q OKAY. AND WHAT WAS DETECTIVE ROZZI DOING WHEN
7 YOU FIRST WENT INTO THE COMPUTER ROOM?

8 A HE WAS LOOKING AT ALL OF THE PAPERS THAT HE COULD
9 GET HIS HANDS ON.

10 Q WAIT A SECOND. OBVIOUSLY, I WANT YOU TO BE
11 SPECIFIC.

12 A OKAY.

13 Q WHEN YOU FIRST WALKED IN AND WHEN YOU FIRST SAW
14 HIM, WHERE WAS HE IN THE ROOM?

15 A IT IS A VERY SMALL ROOM.

16 Q I KNOW THAT. BUT WHERE IN THAT SMALL ROOM WAS
17 HE?

18 A HE WAS -- LET'S SEE, HE WAS MOVING VERY QUICKLY
19 AND HE WAS LOOKING THROUGH PAPERS WHEREVER HE CAN GET HIS
20 HANDS ON THEM.

21 Q MR. ROBERTS --

22 A LET ME JUST BACK UP TO EXACTLY WHERE HE WAS.
23 THAT IS WHAT YOU WANT TO KNOW, RIGHT?

24 Q THAT IS WHAT I WANT TO KNOW.

25 A OKAY. SO EXACTLY WHERE HE WAS WHEN I FIRST SAW
26 HIM WAS, HE WAS UP AGAINST -- THERE IS A BOOKCASE WITH LOTS
27 OF PAPERS AND LOTS OF BOOKS AND HE WAS GOING THROUGH EVERY
28 PIECE OF PAPER IN THAT BOOKCASE.

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1 Q IS THAT THE BOOKCASE THAT HAD THE BLACK BINDERS
2 IN IT?

3 A YES.

4 Q AND DID HE GO THROUGH ALL OF THE BLACK BINDERS?

5 A I DON'T RECALL WHETHER HE WENT THROUGH ALL OF
6 THE BLACK BINDERS OR NOT.

7 Q OKAY, MR. ROBERTS, I DON'T WANT TO NIT-PICK WITH
8 YOU BUT SINCE YOU HAVE USED THE PHRASE "EVERY PIECE OF PAPER
9 IN THE BOOKCASE" --

10 A OKAY.

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1 Q OKAY -- OBVIOUSLY, IF WE TAKE THAT LITERALLY,
2 THAT WOULD INCLUDE THE BOOK BINDERS?

3 A ABSOLUTELY CORRECT.

4 Q LET'S IF WE CAN BE MORE SPECIFIC.

5 A LET ME ANSWER --

6 Q WAIT A SECOND.

7 A OKAY.

8 Q I HAVEN'T ASKED YOU A QUESTION YET.

9 A YES.

10 Q OKAY. WHAT WAS THERE IN THAT BOOKCASE BESIDES
11 THE BLACK BINDERS?

12 A THERE WERE THINGS IN THAT BOOKCASE THAT BELONGED
13 TO ME PERSONALLY.

14 Q WHAT?

15 A LIKE ALL OF MY CHECKS, ALL OF MY CHECK THINGS
16 THAT I HAD KEPT FOR YEARS.

17 Q WHAT ELSE?

18 A WHATEVER -- SOME OF JOE'S PAPERS AND BLACK
19 BINDERS AND MY OWN, A LOT OF MY OWN PERSONAL THINGS I KEPT
20 IN THERE.

21 Q DID YOU SEE DETECTIVE ROZZI --
22 WELL, FIRST OF ALL, LET ME BACKTRACK FOR A
23 SECOND.

24 YOU HAD BEEN GIVEN A COPY OF THE SEARCH WARRANT,
25 HAD YOU?

26 A YES.

27 Q YOU KNEW THEY WEREN'T SEARCHING FOR YOUR PAPERS,
28 DIDN'T YOU?

1 A THAT'S CORRECT.

2 Q DID YOU SEE DETECTIVE ROZZI GOING THROUGH THINGS
3 THAT WERE YOUR CHECKS?

4 A YES.

5 Q AND YOUR PAPERS?

6 A YES.

7 Q DID YOU SAY ANYTHING TO HIM?

8 A YES.

9 Q WHAT DID YOU SAY TO HIM?

10 A I SAID, "THOSE ARE MY PERSONAL PAPERS."

11 "I HAVE TO LOOK THROUGH IT ANYHOW," HE SAID.

12 Q AND HE DID?

13 A YES.

14 Q WHAT ELSE WAS IN THAT BOOKCASE?

15 A OF MINE?

16 Q ANYBODY'S.

17 A THERE WERE LOTS OF FILES AND THINGS THAT BELONGED
18 TO JOE HUNT THAT I -- I DIDN'T KNOW WHAT THEY WERE.

19 I JUST KNOW HE HAS GOT BOOKCASES FULL OF FILES,
20 BUT MY PERSONAL THINGS WERE LOOKED AT, TOO.

21 Q WAS THE REASON THAT YOUR THINGS WERE IN BASICALLY
22 THE SAME PLACE AS HIS BECAUSE YOU USED THAT ROOM FOR STORAGE
23 EVEN BEFORE HE LIVED THERE?

24 A THAT'S CORRECT.

25 Q SO THEY WERE KIND OF COMMINGLED, FOR LACK OF
26 A BETTER WORD?

27 A YES.

28 Q ALL RIGHT. SO ONE WOULD NOT BE ABLE TO TELL

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1 NECESSARILY WHAT WAS YOURS AND WHAT WAS HIS, UNLESS ONE
2 PERUSED IT, CORRECT?

3 A I TOLD HIM WHAT WAS MINE.

4 Q AND THAT IS AS HE WAS LOOKING AT IT?

5 A UH-HUH, YES.

6 Q AND WHAT ABOUT THE BLACK BINDERS, DID HE LOOK
7 AT THOSE BLACK BINDERS?

8 A YES.

9 Q PAGE BY PAGE BY PAGE?

10 A I CAN'T ANSWER THAT. I DON'T KNOW THAT PAGE
11 BY PAGE BY PAGE, BUT I KNOW --

12 Q WHAT DID YOU SEE HIM DOING?

13 A OPENING UP THE BLACK BINDERS AND LOOKING AT THEM.

14 Q WELL, TELL ME WHAT HE DID WHEN HE OPENED UP THE
15 BLACK BINDERS.

16 MR. BARENS: ASKED AND ANSWERED.

17 THE COURT: OVERRULED.

18 Q BY MR. WAPNER: WHAT DID HE DO WHEN HE OPENED
19 THE BLACK BINDERS?

20 A OPENED THEM, OBVIOUSLY READ THEM AND PUT THEM
21 BACK DOWN.

22 Q WAIT A SECOND.

23 WHAT WAS THE THICKNESS OF THE PAPERS THAT WAS
24 IN, FOR EXAMPLE, ONE OF THOSE BINDERS?

25 A I DON'T KNOW. I NEVER OPENED THEM. I NEVER
26 LOOKED AT THEM.

27 Q WELL, IF, FOR EXAMPLE, YOU HAVE A NOTEBOOK THAT
28 HAS GOT TWO INCHES WORTH OF PAPERS IN IT AND YOU SAY THAT

1 SOMEONE OPENED IT AND OBVIOUSLY LOOKED AT IT AND PUT IT BACK
2 DOWN, DOES THAT MEAN HE READ THROUGH EVERY PAPER? DOES THAT
3 MEAN HE READ THE FIRST PAPER AND PUT IT BACK DOWN? WHAT DOES
4 THAT MEAN?

5 MR. BARENS: OBJECTION, YOUR HONOR.

6 THE WITNESS: I CAN'T --

7 MR. BARENS: EXCUSE ME, MR. ROBERTS.

8 OBJECTION. IT ASSUMES TWO FACTS NOT IN EVIDENCE:
9 ONE, THAT THE WITNESS KNOWS THE THICKNESS OF THESE BINDERS
10 AND, TWO, ASSUMES THAT HE KNOWS HOW MANY PAGES THERE WERE
11 IN THEM AND, THREE, ASSUMES THAT HE KNOWS THERE WERE PAGES
12 IN THEM OR NOT TO BEGIN WITH.

13 HE HASN'T LAID A FOUNDATION.
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1 THE COURT: YOUR OBJECTION IS IN EFFECT TELLING HIM
2 WHAT TO TESTIFY TO. WHAT DO YOU MAKE AN OBJECTION OF THAT
3 KIND FOR?

4 MR. BARENS: YOUR HONOR --

5 THE COURT: WHAT DO YOU MAKE OBJECTIONS OF THAT KIND
6 FOR?

7 MR. BARENS: HOW ELSE COULD I?

8 THE COURT: THAT IS NOT A PROPER LEGAL OBJECTION IN
9 THE FIRST PLACE. YOU ARE INDICATING TO HIM HOW THICK IT IS
10 AND HOW MANY PAGES THERE MAY BE.

11 JUST MAKE YOUR OBJECTION IN THE USUAL WAY AND
12 I WILL RULE ON IT.

13 MR. BARENS: IT ASSUMES THREE FACTS NOT IN EVIDENCE.

14 THE COURT: I WILL OVERRULE YOUR OBJECTION.

15 ASK HIM THE QUESTION.

16 Q BY MR. WAPNER: MR. ROBERTS, I WANT TO KNOW FROM
17 YOU SPECIFICALLY WHAT YOU SAW THE DETECTIVE DOING WITH RESPECT
18 TO THE NOTEBOOKS.

19 A I SAW THE DETECTIVE OPEN THE NOTEBOOKS, LOOK
20 AT THEM, CLOSE THEM, PUT THEM BACK ON THE SHELF.

21 Q WHAT DOES THAT MEAN, LOOK AT THEM?

22 THE COURT: HOW LONG DID THAT WHOLE PROCESS TAKE ?

23 THE WITNESS: HE WAS MOVING QUICKLY, YOU KNOW. HE
24 WAS MOVING FAST.

25 THE COURT: HOW LONG DID THE WHOLE PROCESS TAKE?

26 THE WITNESS: THE WHOLE PROCESS?

27 THE COURT: OF LOOKING THROUGH THE NOTEBOOK, YES.

28 THE WITNESS: I DON'T KNOW. I DIDN'T TIME THEM. I

1 DON'T KNOW.

2 THE COURT: WELL, GIVE US YOUR BEST ESTIMATE.

3 THE WITNESS: TWENTY TO THIRTY SECONDS EACH.

4 Q BY MR. WAPNER: TWENTY TO THIRTY SECONDS TO LOOK
5 THROUGH EACH NOTEBOOK?

6 A THAT IS MY BEST ESTIMATE, YES.

7 Q DO YOU HAVE A BEST ESTIMATE OF HOW THICK THE
8 PAGES WERE IN EACH ONE OF THOSE NOTEBOOKS?

9 A NOPE.

10 Q HOW ABOUT APPROXIMATELY?

11 A I HAVE NO IDEA. I NEVER LOOKED AT THE BOOKS.

12 Q YOU SAW HIM LOOKING AT THE BOOKS?

13 A BUT I DIDN'T PAY ATTENTION TO HOW, WHAT THE SIZE
14 OF THE THING WAS.

15 Q DID YOU SEE PAPERS IN THERE THAT HE WAS LOOKING
16 AT?

17 A NO.

18 Q SO YOU DON'T EVEN KNOW IF HE WAS LOOKING AT
19 PAPERS OR LOOKING AT AIR, IS THAT WHAT YOU ARE TRYING TO TELL
20 ME?

21 A I DON'T KNOW WHAT IS IN THE BOOKS. I DON'T KNOW, SO
22 IF IT WAS AIR IN THE BOOKS, YES, HE LOOKED AT AIR.

23 Q I WANT TO KNOW WHAT YOU SAW THAT DAY?

24 A I SAW THE MAN OPEN UP THESE BOOKS, CLOSE THE
25 BOOKS AND PUT THEM BACK DOWN.

26 Q IF YOU SAW HIM OPEN THEM UP, WHAT DID YOU SEE
27 IN THE BOOKS?

28 A I DIDN'T SEE ANYTHING IN THE BOOKS. I WAS

1 STANDING ON THE OUTSIDE AND HE WAS LOOKING AT THE BOOKS.

2 Q HOW FAR AWAY FROM HIM WERE YOU?

3 A FROM HERE TO THAT WALL (WITNESS INDICATING).

4 Q TO THE BACK WALL?

5 A NO. TO THE FRONT WALL.

6 Q TO THE BAR HERE?

7 A FROM HERE TO YOUR CHAIR.

8 Q THAT IS GETTING CLOSER.

9 A OKAY, TAKE EITHER ONE OF THEM.

10 MR. WAPNER: TEN FEET, YOUR HONOR?

11 THE COURT: YES.

12 THE WITNESS: THAT IS APPROXIMATELY RIGHT.

13 Q BYMR. WAPNER: AND DURING THE TIME THAT DETECTIVE
14 ROZZI WAS LOOKING IN THE NOTEBOOKS, WERE YOU FOCUSING PRIMARILY
15 ON HIM?

16 A I WASN'T FOCUSING PRIMARILY ON HIM.

17 I WAS FOCUSING ON HIM AND LES.

18 Q ZOELLER?

19 A ZOELLER, WHO WAS ALSO SITTING ON THE FLOOR AND
20 READING PAPERS.

21 Q WAS HE READING WHAT APPEARED TO BE MANILA
22 FILE FOLDERS?

23 A I DON'T RECALL.

24 Q YOU DON'T REMEMBER WHAT HE WAS READING?

25 A NO.

26 IT LOOKED TO ME LIKE IT WAS COMPUTER PAPER BUT
27 I DON'T RECALL WHETHER IT WAS MANILA OR --

28 Q HOW DO YOU KNOW IT LOOKED LIKE COMPUTER PAPER,

1 IF YOU JUST SAID YOU DON'T RECALL WHAT HE WAS READING?

2 A YOU ASKED ME IF IT WAS MANILA PAPERS AND I SAID
3 I DON'T RECALL.

4 NOW THAT I HAVE THOUGHT ABOUT IT, IT LOOKS TO
5 ME LIKE IT WAS COMPUTER PAPER.

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1 Q AND WERE THOSE COMPUTER PAPERS CONTAINED IN
2 ANYTHING?

3 A I HAVE NO IDEA.

4 Q AND WAS THERE ANYBODY ELSE IN THE ROOM THAT YOU
5 WERE TRYING TO CONCENTRATE ON AT THE SAME TIME?

6 A THEN ABOUT THAT TIME, YOU CALLED ON THE PHONE.

7 Q WAIT A SECOND.

8 A SO MY CONCENTRATION WAS NOW ON DETECTIVE BREILING.

9 Q AND WAS THERE A PHONE IN THAT ROOM?

10 A YES.

11 Q ALL RIGHT. AND WAS THE PHONE CONVERSATION GOING
12 ON IN THAT ROOM?

13 A YES.

14 Q WAS THERE SEARCHING GOING ON DURING THAT TIME
15 THAT PHONE CONVERSATION WAS GOING ON?

16 A YES.

17 Q SO, IT WOULD BE FAIR TO SAY THAT SINCE YOUR
18 CONVERSATION -- EXCUSE ME, YOUR CONCENTRATION WAS NOW ON AGENT
19 BREILING, THAT YOU WEREN'T PAYING ATTENTION TO WHAT
20 DETECTIVE ROZZI OR DETECTIVE ZOELLER WERE DOING AT THAT TIME?

21 IS THAT CORRECT?

22 A THAT'S NOT CORRECT.

23 Q EXPLAIN IT TO ME, THEN.

24 A I PAID ATTENTION TO WHAT EVERYBODY WAS DOING,
25 INCLUDING LISTENING TO THE PHONE CONVERSATION. THESE PEOPLE
26 WERE IN MY HOME.

27 I FELT OBLIGATED TO LISTEN TO WHAT WAS GOING ON.

28 Q DURING THE PHONE CONVERSATION, WHAT WAS

-2
1 DETECTIVE ROZZI DOING?

2 A LOOKING THROUGH ALL THOSE PAPERS.

3 Q ALL WHAT PAPERS?

4 A ALL OF THE THINGS THAT WERE IN THE SHELVES AND
5 THE PAPERS THAT WERE IN THE SHELVES AND ALSO LOOKING AT MY
6 CHECKS.

7 Q WHERE IN THE ROOM WAS DETECTIVE ROZZI DURING THE
8 TIME THAT THE PHONE CONVERSATION TOOK PLACE?

9 A HE WAS UP AGAINST THAT SHELF.

10 Q HOW LONG DID HE STAY UP AGAINST THAT SHELF?

11 A (NO AUDIBLE RESPONSE.)

12 Q GIVE US YOUR BEST ESTIMATE.

13 A FIFTEEN OR TWENTY MINUTES.

14 Q HOW MUCH OF THAT TIME WAS THERE A PHONE
15 CONVERSATION GOING ON BETWEEN DETECTIVE BREILING AND SOMEONE
16 ON THE OTHER END OF THE PHONE?

17 A SOMEBODY ON THE OTHER END WAS YOU.

18 Q WELL, AT THAT PARTICULAR TIME, YOU DON'T KNOW
19 HOW MUCH TIME HE WAS TALKING TO ME OR SOMEONE ELSE, RIGHT?

20 A NO. HE WAS TALKING TO YOU BECAUSE HE KEPT --
21 HE MENTIONED AND REPEATED YOUR NAME.

22 Q HOW LONG DID THAT CONVERSATION TAKE?

23 A FIVE OR SIX MINUTES.

24 Q AND DURING THAT TIME, WERE YOU TRYING TO PAY
25 ATTENTION TO THE CONVERSATION?

26 A YES.

27 Q AND AFTER THAT, DURING THAT CONVERSATION, WHERE
28 WAS DETECTIVE ZOELLER?

A-3

1 A HE WAS ON THE FLOOR, READING THE PAPERS.

2 Q DO YOU KNOW WHAT HE WAS READING?

3 A NO.

4 Q WERE YOU PAYING MORE ATTENTION TO THE CONVERSATION
5 THAN ANYTHING ELSE, RIGHT?

6 A NO. I WAS WATCHING HIM AND I WAS LISTENING AT
7 THE SAME TIME.

8 Q OKAY. WHO ELSE WERE YOU WATCHING?

9 A WHOEVER ELSE WAS IN THAT ROOM.

10 Q WHO ELSE WAS IN THE ROOM?

11 A BREILING, ZOELLER AND BOB WHATEVER HIS LAST NAME
12 IS AND --

13 Q WAS KURT KUHN THERE TAKING PICTURES?

14 A YES. HE WAS THERE, TOO.

15 Q HOW ABOUT CLARK FOGG, WRITING DOWN A LIST OF
16 THE PICTURES THAT WERE TAKEN, SOMEBODY ACTING AS --

17 A YES. THERE WERE PEOPLE RUNNING AROUND. I DIDN'T
18 KNOW THEM BY NAME.

19 Q THERE WERE A LOT OF PEOPLE IN THAT SMALL ROOM?

20 A YEAH.

21 Q A LOT OF ACTIVITY?

22 A A LOT OF IT.

23 Q HARD TO KNOW WHAT EVERYBODY WAS DOING AT EVERY
24 MOMENT, WASN'T IT?

25 A YEAH.

26 Q AT SOME POINT, YOU LEFT THAT ROOM AND THEN YOU
27 CAME BACK IN THERE?

28 A I WENT FROM THAT ROOM INTO THE BEDROOM.

SA-4
1 Q AND THEN BACK?

2 A AND THEN BACK IN THE OTHER ROOM. THEN I WOULD
3 GO DOWNSTAIRS AND SEE WHAT WAS GOING ON THERE. I WAS ALL
4 OVER THE HOUSE.

5 Q HOW MUCH TIME DID YOU SPEND IN THE COMPUTER ROOM
6 ALTOGETHER?

7 A I DON'T RECALL HOW MUCH TIME. I WENT BACK AND
8 FORTH QUITE A FEW TIMES.

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R-1
1 Q GIVE US YOUR BEST ESTIMATE OF THE AMOUNT OF TIME
2 THAT YOU SPENT THERE.

3 A TWENTY-FIVE OR THIRTY MINUTES.

4 Q HOW MUCH TIME DID YOU THINK THE OFFICERS WERE
5 THERE ALTOGETHER?

6 A THEY WERE IN MY OPINION -- DO YOU WANT ME TO GIVE
7 YOU A GUESS ON THAT?

8 Q IF YOU KNOW.

9 A I WOULD HAVE TO GUESS.

10 Q OKAY. PART OF THE TIME YOU WERE DOWNSTAIRS AND
11 THERE WERE OFFICERS UPSTAIRS. BUT YOU DON'T KNOW THAT, BECAUSE
12 YOU WEREN'T THERE, RIGHT?

13 A CORRECT.

14 Q PART OF THE TIME YOU LEFT AND WENT DOWNSTAIRS
15 AND YOU DON'T KNOW WHETHER THEY WERE STILL IN THERE OR NOT,
16 RIGHT?

17 A CORRECT.

18 Q AT THE TIME THAT YOU WERE ABLE TO OBSERVE WHERE
19 THEY WERE, HOW MUCH TIME DID THEY SPEND IN THAT COMPUTER ROOM?

20 A THEY SPENT -- I THINK THEY SPENT ABOUT TWO HOURS
21 IN OUR HOME FROM THE TIME --

22 THE COURT: HE ASKED ABOUT THE COMPUTER ROOM.

23 THE WITNESS: I WILL SAY THAT IN MY OPINION, THEY WERE
24 IN THAT ROOM ALL OF THE TWO HOURS THAT THEY WERE THERE.

25 IN FACT, WHEN THEY LEFT THEY WENT BY US AND THEY
26 WERE LEAVING FROM THAT ROOM.

27 Q BY MR. WAPNER: AND WHEN DID MR. CHIER ARRIVE?

28 A MR. CHIER ARRIVED I WOULD SAY, ABOUT 45 MINUTES

1 INTO THIS EXTRAVAGANZA.

2 Q DID YOU GO UPSTAIRS WITH MR. CHIER?

3 A DID I GO UPSTAIRS WITH HIM? I WAS UPSTAIRS WHEN
4 HE CAME UPSTAIRS. I WAS ALREADY UPSTAIRS. SO I DIDN'T GO
5 UP WITH HIM.

6 I WAS ALREADY THERE. HE JUST WALKED UP AND I
7 WAS THERE.

8 Q WHEN YOU WERE THERE UPSTAIRS AND MR. CHIER CAME
9 UP THERE, WHERE WAS DETECTIVE ZOELLER?

10 A ZOELLER? HE WAS IN THE COMPUTER ROOM.

11 Q HE WAS ALREADY IN THE COMPUTER ROOM AND YOU WERE
12 THERE AT THE TIME MR. CHIER WALKED UPSTAIRS?

13 A WHEN I RAN INTO MR. CHIER, I WAS IN THE BEDROOM.
14 AND IN THE BEDROOM WAS BREILING AND THE OTHER OFFICER WHOSE
15 NAME I DON'T RECALL.

16 Q TULLENERS?

17 A TULLENERS. AND CHIER CAME UP AND CAME INTO THAT
18 BEDROOM AND -- DO YOU WANT ME TO CONTINUE ON AND TELL YOU
19 WHAT HE SAID?

20 Q NO. I DON'T WANT TO KNOW WHAT MR. CHIER SAID.

21 BUT WHEN YOU SAW MR. CHIER, AT SOME POINT LATER,
22 MR. CHIER WENT INTO THE COMPUTER ROOM, YOU AND HE TOGETHER?

23 A YES.

24 Q AND DETECTIVE ZOELLER WAS ALREADY IN THERE?

25 A YES.

26 MR. WAPNER: NOTHING FURTHER.

27 MR. BARENS: NOTHING FURTHER.

28 THE COURT: ALL RIGHT. THANK YOU. YOU MAY STEP DOWN.

3-3

1 MAY THE WITNESS BE EXCUSED?

2 MR. BARENS: YES.

3 MR. WAPNER: NO OBJECTION.

4 THE COURT: ALL RIGHT. THANK YOU.

5 NEXT WITNESS?

6 MR. BARENS: IF I MAY GO AND GET THE NEXT WITNESS.

7 (PAUSE.)

8 MR. BARENS: THE DEFENSE CALLS LYNNE ROBERTS.

9

10 LYNNE ROBERTS,
11 CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND TESTIFIED
12 AS FOLLOWS:

13 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
14 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
15 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO
16 HELP YOU GOD.

17 THE WITNESS: I DO.

18 THE CLERK: STATE AND SPELL YOUR NAME FOR THE RECORD.

19 THE WITNESS: LYNNE ROBERTS, L-Y-N-N-E R-O-B-E-R-T-S.

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EXAMINATION

22 BY MR. BARENS:

23 Q GOOD AFTERNOON, MRS. ROBERTS.

24 A HELLO.

25 Q MRS. ROBERTS, I -- YOUR HONOR, I WILL TRY TO SKIP
26 OVER AS MUCH AS I CAN TO KIND OF FOCUS WHERE WE WANT TO BE.

27 MRS. ROBERTS, I WILL MAKE A LITTLE BIT OF A
28 STATEMENT. MRS. ROBERTS, YOU ARE THE WIFE OF BOBBY ROBERTS

B-4

1 AND YOU ARE FAMILIAR WITH THE DEFENDANT, JOE HUNT AND YOU
2 ARE AWARE OF THE FACT THAT HE IS A DEFENDANT IN A MURDER
3 TRIAL AND YOU RESIDE WITH MR. ROBERTS AT A RESIDENCE IN
4 BEL AIR?

5 A YES.

6 Q HAS JOE HUNT RESIDED CONTINUOUSLY WITH YOUR
7 FAMILY AT THAT RESIDENCE SINCE NOVEMBER OF 1985 TO THE PRESENT
8 DATE?

9 A YES.

10 Q THANK YOU. DID YOU BECOME AWARE DURING THAT PERIOD
11 OF TIME, THAT MR. HUNT WAS ACTIVELY INVOLVED IN THE
12 PREPARATION OF HIS DEFENSE?

13 A YES.

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1 Q WERE YOU AWARE OF THE FACT THAT HE WAS PREPARING
2 MATERIALS TO BE USED IN HIS DEFENSE?

3 A YES.

4 Q AGAIN, I AM GOING TO LEAD JUST TO SAVE TIME.
5 DID MR. HUNT HAVE THE USE OF TWO BEDROOMS ON
6 THE SECOND FLOOR OF YOUR HOME?

7 A YES.

8 Q AND WOULD THOSE TWO BEDROOMS WOULD BE ONE I CALL
9 THE BEDROOM AND THE OTHER ONE HAVE A COMPUTER IN IT, WHICH
10 I WILL CALL THE COMPUTER ROOM?

11 A YES.

12 Q YOU UNDERSTAND IF I USE THOSE TWO REFERENCES
13 WHAT I MEAN?

14 A YES.

15 Q DID YOU HAVE OCCASIONS WHERE YOU SAW MR. HUNT
16 WORKING IN THE COMPUTER ROOM?

17 A YES, MANY TIMES.

18 Q AND IN FACT, WOULD YOU SAY HE WORKED IN THAT
19 COMPUTER ROOM ALMOST EVERY DAY AND NIGHT THAT HE WAS THERE?

20 A YES.

21 Q AND DID HE TELL YOU ON THOSE OCCASIONS THAT HE
22 WAS DOING THINGS ASSOCIATED WITH THE PREPARATION OF HIS DEFENSE?

23 A YES.

24 Q DID HE APPEAR TO BE WORKING ON THE COMPUTER,
25 PREPARING THE MATERIALS FOR HIS DEFENSE?

26 A YES, EVERY DAY.

27 Q NOW, WAS THERE A SEARCH CONDUCTED AT YOUR HOUSE
28 ON JANUARY 8, 1987?

1 A YES.

2 Q WHERE WERE YOU WHEN YOU FIRST BECAME AWARE THAT
3 THERE WAS SOMEONE THERE RELATIVE TO A SEARCH, WHERE WERE YOU
4 IN THE HOUSE?

5 A I WAS IN BED, IN MY BEDROOM.

6 Q AND HOW WERE YOU MADE AWARE OF THE SEARCH, MRS.
7 ROBERTS?

8 A WELL, THE INTERCOM IN THE HOUSE RANG AND I PICKED
9 IT UP AND I HEARD HATTIE, THE LADY THAT WAS AT THE HOUSE
10 HELPING ME THAT DAY, TELL MR. ROBERTS TO COME INTO THE
11 KITCHEN IMMEDIATELY.

12 AND SO THEN LIKE WITHIN A COUPLE OF MINUTES,
13 MY HUSBAND, MR. ROBERTS AND DETECTIVE BREILING AND TWO OR
14 THREE -- THERE WAS A UNIFORMED OFFICER AND THEN LIKE A PLAIN
15 CLOTHESMAN PERSON, AND THEY OPENED THE DOOR AND MY HUSBAND
16 SAID, "YOU HAVE GOT TO GET UP." YOU KNOW, "THEY ARE GOING TO
17 SEARCH THE HOUSE."

18 SO, YOU KNOW, I HAD GOTTEN OUT OF BED TO JUST
19 GET MY ROBE ON WHEN THEY ENTERED THE ROOM, SO I SAID, "WHAT
20 DO THEY WANT?"

21 AND HE SAID, "I DON'T KNOW. IT HAS TO DO WITH
22 JOE."

23 AND SO MY HUSBAND SAID, "THEY WANT YOU TO COME
24 DOWNSTAIRS NOW."

25 AND I SAID, "I CAN'T, YOU KNOW. I HAVE TO WASH
26 MY FACE AND BRUSH MY TEETH."

27 AND SO MR. BREILING SAID, "OH, YES, YOU CAN DO
28 THAT, MRS. ROBERTS."

1 SO I STARTED TO GO INTO THE BATHROOM AND MR.
2 BREILING SAID, "MR. ROBERTS, YOU WAIT DOWNSTAIRS AND I WILL
3 LEAVE AN OFFICER UP HERE WITH MRS. ROBERTS."

4 SO I SAID, "WELL, I AM GOING TO CLOSE THE BATHROOM
5 DOOR," AND I WENT IN AND I BRUSHED MY TEETH AND EVERYTHING,
6 AND THEN I CAME OUT AND THE OFFICER WAS THERE.

7 AND BY THIS TIME, MY HUSBAND HAD COME BACK
8 UPSTAIRS AND SAID, "LISTEN, YOU CAN GET YOUR CLOTHES ON. YOU
9 DON'T HAVE TO COME DOWN LIKE THIS."

10 AND I SAID, "WELL, I WILL JUST GO ON DOWN AND
11 THEY CAN LOOK IN MY BEDROOM, DO WHAT THEY HAVE TO DO AND LEAVE
12 MY HOUSE".

13 Q NOW, MRS. ROBERTS, DID YOU HAVE AN IMPRESSION
14 AT ANY TIME THAT YOU WERE PRECLUDED FROM WATCHING WHAT WAS
15 GOING ON DURING THE SEARCH?

16 A WELL, I WAS ESCORTED DOWNSTAIRS, YOU KNOW, WITH
17 MY HUSBAND AND MY HUSBAND SAID, "THEY WANT YOU TO STAY IN
18 THE KITCHEN AND THEY WANT ME IN A LITTLE TACK ROOM," WHICH
19 MY HUSBAND USES AS AN OFFICE.

20 Q NOW, DID YOU EVER HAVE OCCASION TO GO BACK
21 UPSTAIRS?

22 A YES, I DID.

23 WELL, I KNEW THAT THEY WERE SEARCHING BROOKE'S
24 ROOM. SHE LIVES IN THE GUEST HOUSE, SO I HAD OPENED THE
25 KITCHEN DOOR AND YELLED OUT TO HER, WAS SHE OKAY AND SHE SAID
26 YES.

27 AND I SAID, "WELL, DO YOU WANT TO COME IN AND
28 HAVE A CUP OF TEA WITH ME IN THE KITCHEN?"

1 AND SHE SAID, "NO. I WANT TO WATCH THEM, BECAUSE
2 BEFORE WHEN THEY SEARCHED OUR APARTMENT, THEY TOOK THINGS
3 THEY NEVER GAVE BACK AND I WANT TO BE IN MY LITTLE HOUSE WHEN
4 THEY ARE SEARCHING IT."

5 SO WHEN I FOUND THAT OUT, I WENT BACK UPSTAIRS,
6 YOU KNOW, TO MY HUSBAND AND I SAID WHAT BROOKE SAID AND "YOU
7 HAD BETTER WATCH THEM," BECAUSE MY HUSBAND HAD TOLD ME THEY
8 WANTED ME IN THE KITCHEN.

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1 Q DID YOU HAVE AN OCCASION WHEN YOU WENT BACK
2 UPSTAIRS?

3 A YES, I DID.

4 THEN I JUST DECIDED, "HEY, I CAN GO UP HERE,
5 I CAN DO THIS" AND I DID.

6 Q MRS. ROBERTS, IF YOU CAN GIVE ME YOUR BEST
7 ESTIMATE AS TO HOW LONG HAD THE OFFICERS BEEN UPSTAIRS IN
8 THE BEDROOM AREA OF YOUR HOUSE PRIOR TO THE TIME THAT YOU
9 WENT BACK UPSTAIRS, HOW MUCH TIME HAD ELAPSED BY THEN?

10 A WELL, ALL OF THE OFFICERS WERE UPSTAIRS WHEN
11 BOBBY CAME UP TO TELL ME THAT, YOU KNOW, WERE THERE.

12 MR. WAPNER: OBJECTION AS NON-RESPONSIVE. THE QUESTION
13 CALLS FOR AN ESTIMATE OF TIME.

14 I DON'T MEAN TO BE INTERRUPTING BUT --

15 THE COURT: YES. DO YOU HAVE AN ESTIMATE OF THE TIME?

16 Q BY MR. BARENS: LET ME MAKE CLEAR TO HER EXACTLY
17 WHAT I AM ASKING FOR.

18 A YES, OKAY.

19 Q WHEN YOU WENT DOWNSTAIRS --

20 A YES.

21 Q -- IN THE FIRST INSTANCE, AFTER YOU HAD TAKEN
22 YOUR TOILETTE, SO TO SPEAK --

23 A YES.

24 Q WERE THERE OFFICERS THAT YOU WERE AWARE OF AT
25 THAT TIME AT THE BEDROOM AND THE COMPUTER ROOM THAT JOE HUNT
26 OCCUPIED?

27 A YES.

28 Q NOW, BETWEEN THEN AND THE TIME YOU NEXT CAME

1 UPSTAIRS, HOW MUCH TIME ELAPSED?

2 A OH, PROBABLY HALF -- MAYBE 25 MINUTES, HALF AN
3 HOUR.

4 Q ALL RIGHT. NOW WHEN YOU CAME BACK UPSTAIRS,
5 DID YOU GO TO THE AREAS OF THE UPSTAIRS OCCUPIED BY MR. HUNT?

6 A YES.

7 AS YOU GO UP MY STAIRS, THE BEDROOM THAT IS THIS
8 LITTLE OFFICE IS RIGHT AT THE TOP OF THAT STAIR AND THE OTHER
9 BEDROOM, AND SO I WALKED AND I LOOKED IN THAT BEDROOM AND
10 LOOKED BACK AT THE OTHER BEDROOM AND SAW THE OFFICERS, YOU
11 KNOW, IN THERE.

12 Q WHY DID YOU GO TO THE BEDROOMS OCCUPIED BY JOE
13 HUNT?

14 A OH, BECAUSE I KNEW ALL OF HIS DEFENSE MATERIAL
15 WAS IN THERE AND THEY ALL WERE IN THERE AND I, YOU KNOW, I
16 WAS FRIGHTENED ABOUT THAT BECAUSE THEY WERE LOOKING AT, YOU
17 KNOW, EVERYBODY WAS IN THERE GETTING HIS STUFF SO --

18 Q NOW, COULD YOU FROM ANY PAST OR PRIOR EXPERIENCE
19 THAT YOU HAD, RECOGNIZE ANY OF THE OFFICERS THAT WERE PRESENT
20 IN THE BEDROOMS UPSTAIRS WHEN YOU WENT BACK UPSTAIRS?

21 A WELL, MR. BREILING AND THEN THE GENTLEMAN THAT
22 WAS THERE EARLIER THAT TESTIFIED EARLIER.

23 Q MR. TULLENERS.

24 A AND THEN --

25 MR. WAPNER: WAS THAT A YES?

26 THE WITNESS: YES, THAT WAS A YES.

27 Q BY MR. BARENS: ANY OTHER OFFICERS YOU RECOGNIZED?

28 A WELL, MR. ZOELLER CAME UP AND MR. BREILING WAS

1 THERE AND THEN THERE WAS TWO, A MR. DIAZ OR -- AND A MR.
2 ROZZI, I THINK HIS NAME WAS.

3 Q ALL RIGHT, NOW I AM ASKING YOU SPECIFICALLY,
4 MRS. ROBERTS, WHEN YOU CAME BACK UPSTAIRS ON THAT OCCASION,
5 WAS DETECTIVE ZOELLER UPSTAIRS OR DID HE LATER COME UPSTAIRS?

6 A THE FIRST --

7 Q IF YOU KNOW.

8 A THE VERY FIRST TIME THAT I WENT BACK UPSTAIRS --
9 WELL, I MADE SO MANY TRIPS UPSTAIRS -- AS I RECALL, HE WAS
10 UP THERE.

11 Q ALREADY?

12 A ALREADY.

13 Q NOW, WHERE, IN WHICH OF THE TWO ROOMS WAS MR.
14 ZOELLER?

15 A IN THE OFFICE ONE WITH THE COMPUTER.

16 Q THE COMPUTER ROOM?

17 A YES.

18 Q WHAT DID HE APPEAR TO BE DOING?

19 A WELL, HE WAS -- THERE WAS, YOU KNOW, PAPERS ALL
20 OVER THE END OF THE BED, YOU KNOW, FILES AND STUFF AND HE
21 WAS THERE AND THE PHOTOGRAPHER, AND HE WAS -- AND HE AND MR.
22 BREILING WERE LOOKING THROUGH ALL OF THESE THINGS WITH THE
23 OTHER TWO MEN AND THEN -- AND THEN HE WAS -- HE HAD THE
24 PHOTOGRAPHER TAKING PICTURES OF EVERYTHING.

25 Q AT THE TIME YOU WALKED UP THERE AND SAW THIS
26 PICTURE-TAKING ACTIVITY PROCEEDING, WAS THERE ANYBODY ELSE
27 IN THE COMPUTER ROOM IN TERMS OF ANYBODY ELSE?

28 A WELL, THE -- THE -- MR. ROZZI AND THEN THERE

1 WAS ANOTHER DETECTIVE THAT I NEVER -- I DON'T KNOW HIS NAME
2 BUT HE HAD THE MUSTACHE AND HE WAS KIND OF SHORT IN STATURE,
3 HEAVYSET, AND HE CARRIED A LITTLE BOX ALL THE TIME AND HE
4 MADE LOTS OF TRIPS OUT TO THE TRUCK OUT IN THE DRIVEWAY.

5 Q ALL RIGHT.

6 A I DON'T KNOW HIS NAME, BUT THERE WAS QUITE A
7 FEW, YOU KNOW.

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1 Q NOW MRS. ROBERTS, WHAT DID DETECTIVE ROZZI
2 APPEAR TO BE DOING IN THE COMPUTER ROOM WHEN YOU WENT UPSTAIRS?

3 A HE WAS LOOKING THROUGH EVERYTHING.

4 Q ALL RIGHT. MORE SPECIFICALLY, WHEN YOU CAME INTO
5 THE ROOM, YOU HAVE INDICATED THAT MR. ZOELLER WAS ADJACENT
6 TO THE BED WITH THE PHOTOGRAPHER?

7 A YEAH.

8 Q WHERE SPECIFICALLY IN THE ROOM, WAS MR. ROZZI?

9 A AROUND THE DESK AREA.

10 Q ALL RIGHT. AND DID HE APPEAR TO BE LOOKING AT
11 DOCUMENTS ON THE DESK?

12 A YES AND PAPERS.

13 Q ALL RIGHT. DID YOU STAY IN THE COMPUTER ROOM
14 AT THAT TIME?

15 A NO. I ONLY STAYED A SHORT -- JUST A FEW MINUTES
16 AT THAT TIME. LATER, I WENT BACK INTO THAT ROOM AND STAYED
17 LONGER AND WAS ASKED TO LEAVE BY MR. BREILING.

18 Q ALL RIGHT. AFTER YOU WERE IN THAT ROOM ON THE
19 FIRST OCCASION, YOU SAY YOU STAYED A FEW MINUTES, MRS. ROBERTS.
20 WOULD THAT BE LESS THAN FIVE?

21 A LESS THAN FIVE, YES.

22 Q AND WHERE DID YOU GO WHEN YOU LEFT THAT ROOM?

23 A I WENT INTO MY BEDROOM TO GET DRESSED.

24 Q ALL RIGHT.

25 A BECAUSE I STILL HAD ON MY HOUSECOAT.

26 Q ALL RIGHT. WHEN YOU LEFT YOUR BEDROOM, WHERE
27 DID YOU GO?

28 A WELL, I WALKED DOWN, YOU KNOW. I WALKED BACK

1 DOWNSTAIRS AND THEN I WOULD BE DOWN THERE FOR A FEW MINUTES.

2 I MADE A CUP OF TEA OR SOMETHING. AND THEN I
3 WOULD COME BACK UPSTAIRS.

4 Q BEFORE YOU CAME UPSTAIRS ON THE SECOND OCCASION --

5 A UH-HUH.

6 Q HAD MR. CHIER ARRIVED AT THE HOUSE?

7 A NO. I HAD GONE UPSTAIRS A COUPLE OF TIMES BEFORE
8 MR. CHIER GOT THERE.

9 Q I SEE. WHEN YOU WENT UP -- ALL RIGHT. IT OCCURS
10 TO ME THAT YOU MAY HAVE GONE UPSTAIRS IN THAT CURSORY MANNER
11 A COUPLE OF TIMES.

12 AND DID THERE COME A TIME WHEN YOU SPENT MORE
13 TIME UPSTAIRS? IS THAT WHAT YOU ARE TELLING ME, BEFORE
14 MR. BREILING ASKED YOU TO LEAVE?

15 A YES.

16 Q ALL RIGHT. IN ORDER TO SAVE TIME, HOW MUCH --
17 HOW MANY TIMES HAD YOU BEEN UP AND DOWN THE STAIRS BEFORE
18 YOU SPENT THE LONGEST PERIOD OF TIME --

19 A JUST THE TWO TIMES. LIKE ON MY THIRD TIME UP,
20 THAT IS WHEN I STAYED LONGER.

21 Q OKAY. BETWEEN THE TIME THE POLICE OFFICERS
22 ARRIVED AND THE THIRD TIME YOU WENT UPSTAIRS, HOW MUCH TIME
23 ELAPSED?

24 A I WOULD SAY PROBABLY ABOUT AN HOUR.

25 Q ALL RIGHT. NOW, WHEN YOU WENT UPSTAIRS THE THIRD
26 TIME, WHAT OFFICERS WERE PRESENT IN THE --

27 WELL, STRIKE THAT.

28 WHEN YOU WENT UP THE STAIRS ON THE THIRD TIME,

1 WHERE DID YOU GO?

2 A WELL, I HAD YOU KNOW, GONE INTO AND KIND OF
3 CHECKED IN BOTH BEDROOMS BECAUSE THIS TIME MY SON, CURTIS
4 WAS IN THE OTHER BEDROOM.

5 AND THEN, I WENT -- I ACTUALLY CAME BACK INTO
6 MY BEDROOM BECAUSE THE OFFICER, THE DETECTIVE HAD FINISHED,
7 YOU KNOW, DOING -- LIKE SEARCHING THROUGH MY BEDROOM.

8 I HAD SHOWN HIM UPSTAIRS INTO THE ATTIC WHERE
9 I HAVE A STORAGE ROOM UP THERE. I SHOWED HIM AROUND.

10 THEN HE CAME DOWN AND HE WAS FINISHED WITH MY
11 ROOM. SO THEN I STAYED IN MY ROOM.

12 Q ALL RIGHT. AFTER BEING IN YOUR ROOM, DID YOU
13 EVER GO BACK INTO THE ROOMS OCCUPIED BY MR. HUNT?

14 A YES, LATER ON I DID.

15 Q HOW MUCH LATER, MA'AM?

16 A I WOULD SAY PROBABLY FIFTEEN OR TWENTY MINUTES.

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1 Q ALL RIGHT. WE WOULD NOW BE AT THE TIME OF THE
2 ARRIVAL OF THE OFFICERS PLUS AN HOUR AND FIFTEEN TO AN HOUR
3 AND TWENTY MINUTES?

4 A YES.

5 Q IS THAT CORRECT?

6 A YES.

7 Q AND WHEN YOU WENT BACK IN THE ROOM OCCUPIED BY
8 MR. HUNT, DID YOU GO TO THE COMPUTER ROOM?

9 A YES.

10 Q AND AT THAT TIME, WHO WAS PRESENT IN THE COMPUTER
11 ROOM?

12 A WELL, THE DETECTIVE THAT CARRIED THE BOX ALL OF
13 THE TIME WAS ON THE FLOOR, TAKING STUFF. AND THEN THE OTHER
14 ONE, I THINK MR. ROZZI, HE WAS LIKE, BEHIND -- I HAVE A BIG
15 ARMOIR.

16 IT IS A BEDROOM AND IT ALSO HAPPENS TO ALSO HAVE
17 A COMPUTER SETUP.

18 BUT THERE WAS A BIG BOX OF PAPERS AND STUFF BECAUSE
19 IT USED TO BE MY KIDS' ROOM. THERE IS JUST A LOT OF JUNK
20 IN THERE.

21 HE WAS BEHIND THE ARMOIR, GOING THROUGH A BOX
22 OF A LOT OF PAPERS AND STUFF.

23 Q ALL RIGHT. WHO ELSE WAS IN THAT ROOM?

24 A WELL --

25 Q WE ARE NOW ON MRS. ROBERTS, I BELIEVE THE THIRD
26 TIME THAT YOU WERE IN THE BEDROOM AND YOU SAID THAT YOU SAW
27 MR. ROZZI.

28 WAS THERE ANYBODY ELSE IN THAT COMPUTER ROOM AT

2-2
1 THAT TIME?

2 A WELL, THERE WAS, BECAUSE MR. BREILING WALKED IN
3 AND MY HUSBAND WALKED IN AFTER I DID AND HE ASKED US TO LEAVE
4 BECAUSE HE SAID THE ROOM IS TOO SMALL FOR ALL OF YOU IN HERE.

5 Q ALL RIGHT.

6 A SO WE, YOU KNOW, WALKED OUT INTO THE HALL.

7 Q ALL RIGHT. AT ANY TIME, DID YOU OBSERVE -- IT
8 SAYS IN YOUR DECLARATION HERE, THAT YOU SAW DETECTIVE ZOELLER
9 IN THE MIDST OF REVIEWING THE CONTENTS OF THE TRASH BASKET?
10 DID YOU EVER SEE THAT HAPPEN?

11 A YES.

12 Q NOW, DID THAT HAPPEN ON ONE OF THE FIRST THREE
13 TIMES THAT YOU WERE UPSTAIRS ON THAT DAY?

14 A YES.

15 Q ON WHICH OF THE THREE OCCASIONS, IF YOU RECALL?

16 A WELL, IT SEEMS LIKE IT WAS EITHER THE FIRST OR
17 SECOND ONE.

18 Q ALL RIGHT. HOW LONG A PERIOD OF TIME DID YOU
19 WATCH HIM LOOKING AT THINGS IN THE TRASH CAN?

20 A WELL, I JUST STOOD THERE FOR A FEW MINUTES BECAUSE
21 IT WAS REALLY -- IT WAS VERY DISTURBING TO ME. I JUST WATCHED
22 FOR A FEW MINUTES AND THEN I WALKED OUT.

23 Q HOW LONG WOULD YOU SAY THE FEW MINUTES WERE?
24 COULD YOU GIVE ME YOUR BEST ESTIMATE OF WHAT YOU MEAN BY THE
25 REFERENCE OF A FEW MINUTES IN THIS INSTANCE?

26 A WELL, POSSIBLY THREE OR FOUR MINUTES.

27 Q ALL RIGHT. WHEN YOU SAY THAT IT WAS VERY
28 DISTURBING TO YOU THAT HE WAS LOOKING THROUGH THE TRASH CAN,

B-3

1 CAN, WHY WAS IT DISTURBING TO YOU?

2 A WELL, BECAUSE I KNEW THAT IT WAS ALL JOE'S DEFENSE
3 STUFF IN THERE. YOU KNOW, IT WAS LIKE I JUST -- I KNEW THAT
4 THEY WEREN'T SUPPOSED TO DO THAT. OR I FELT THEY WEREN'T
5 SUPPOSED TO DO THAT. I DIDN'T KNOW THAT THEY WEREN'T SUPPOSED
6 TO DO IT. I JUST GOT DISTURBED BECAUSE IT WAS ALL OF HIS
7 WORK THAT HE HAD BEEN WORKING ON.

8 Q DID THE MATERIALS IN THE TRASH CAN APPEAR TO HAVE
9 BEEN MATERIALS GENERATED IN A TYPEWRITTEN FORM OR COMPUTER
10 PAPER?

11 A THERE WAS COMPUTER PAPER AND SOME LIKE, YELLOW
12 PAPERS AND COMPUTER PAPERS.

13 Q ALL RIGHT. IN ANY EVENT, ON THAT OCCASION, YOU
14 STAYED THREE OR FOUR MINUTES?

15 A YES BECAUSE I JUST WALKED IN AND I SAW WHAT THEY
16 WERE DOING.

17 Q ALL RIGHT. DID MR. CHIER EVENTUALLY ARRIVE AT
18 THE RESIDENCE?

19 A YES.

20 Q AND AFTER MR. CHIER ARRIVED, WHERE WERE YOU WHEN
21 YOU FIRST ENCOUNTERED MR. CHIER?

22 A WELL, I WAS UPSTAIRS AT THE TIME WHEN HE CAME
23 UP THERE.

24 Q AND WHERE WERE YOU PHYSICALLY WHEN YOU FIRST
25 ACKNOWLEDGED MR. CHIER?

26 A I THINK AS I RECALL, I WAS RIGHT AT THE TOP OF
27 THE STAIRS, RIGHT IN FRONT OF THE COMPUTER BEDROOM.

28 Q ALL RIGHT. NOW, AFTER MR. CHIER ARRIVED, ARE

B-4

1 YOU AWARE OF WHETHER OR NOT MR. CHIER ENGAGED IN A TELEPHONE
2 CONVERSATION WITH MR. ZOELLER -- SORRY, STRIKE THAT.
3 I MISSPOKE MYSELF.

4 PRIOR TO MR. CHIER ARRIVING, HAD YOU EVER
5 WITNESSED OSCAR BREILING PARTICIPATING IN A TELEPHONE
6 CONVERSATION?

7 A WHEN YOU FINALLY CALLED, YOU ASKED TO SPEAK WITH
8 HIM. AND I AM THE ONE THAT ANSWERED THE PHONE.

9 MR. BARENS: EXCUSE ME, YOUR HONOR. CLIENTS ALWAYS SAY,
10 "WHEN YOU FINALLY CALLED."

11 THE WITNESS: EXCUSE ME.

12 MR. BARENS: IT WAS JUST AN ASIDE. NOTHING INTENDED,
13 MRS. ROBERTS.

14 Q ABOUT WHAT TIME WAS IT TO YOUR BEST RECOLLECTION
15 THAT I CALLED?

16 A PROBABLY -- IT SEEMED TO ME THAT IT WAS AROUND
17 BETWEEN 11:15 AND 11:30. I DON'T REMEMBER. IT JUST SEEMED
18 LIKE THEY HAD BEEN THERE A LONG TIME.

19 Q ALL RIGHT. WHEN I CALLED THE HOUSE, DID I FIRST
20 SPEAK WITH YOU?

21 A YES.

22 Q AND DID I ASK YOU GENERALLY WHAT WAS GOING ON
23 OR SOMETHING LIKE THAT?

24 A YES.

25 Q YOU TOLD ME THE BEST THAT YOU COULD?

26 A YES.

27 Q ALL RIGHT. DID I THEN ASK YOU IF I COULD SPEAK
28 TO ANYONE THERE?

1 A MR. BREILING.

2 Q ALL RIGHT. DID YOU CALL MR. BREILING TO THE PHONE?

3 A YES. I CALLED -- I WAS IN THE KITCHEN. I CALLED
4 OUT HIS NAME TO MY HUSBAND, WHO WAS LIKE, NEAR HIS OFFICE.

5 AND I SAID THAT MR. BARENS WANTS TO SPEAK TO
6 MR. BREILING. AND HE SAID OKAY.

7 WELL, HE WAS GOING THROUGH THE WHITE ANTIQUE IN
8 THE LIVING ROOM. AS SOON AS HE FINISHED, HE SAID THAT HE
9 WOULD COME TO THE PHONE, WHICH HE DID.

10 Q NOW, WERE YOU PRESENT DURING THE CONVERSATION
11 WITH MR. BREILING AND MYSELF?

12 A I WAS NOT IN THE SAME ROOM. I WAS YOU KNOW, LIKE
13 IN THE HALLWAY.

14 Q ALL RIGHT. DID YOU LISTEN? COULD YOU HEAR WHAT
15 MR. BREILING WAS SAYING TO ME ON THE PHONE?

16 A YES. I HEARD.

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1 Q WHAT DID IT APPEAR TO YOU THAT MR. BREILING WAS
2 TALKING ABOUT WITH ME?

3 A WELL, HE WAS REASSURING YOU THAT HE WASN'T
4 HARASSING ME OR ANYBODY IN MY FAMILY, THAT HE HAD A LEGAL
5 SEARCH WARRANT AND THAT HE WASN'T HARASSING ANYBODY AND THAT
6 EVERYTHING WAS, YOU KNOW, GOING FINE AND THAT MRS. ROBERTS
7 WAS DOING HER DAILY ROUTINE AND THE DOMESTIC THAT WAS THERE
8 WAS DOING HER DAILY ROUTINE AND MR. ROBERTS WAS IN HIS OFFICE
9 MAKING PHONE CALLS TO WORK.

10 Q DID MR. BREILING COMMENT TO YOU ABOUT HIS PHONE
11 CALL WITH ME AFTER HE GOT OFF THE PHONE?

12 A YES, HE DID.

13 Q WHAT DID HE SAY TO YOU?

14 A HE JUST SAID THAT "MR. BARENS WAS VERY CONCERNED
15 THAT THAT -- THAT I DON'T OFFEND YOU" AND THAT, YOU KNOW, THAT
16 I AM -- YOU KNOW, THAT I AM NOT BEING -- " THAT MRS. ROBERTS
17 WASN'T BEING ABUSED."

18 Q DID HE TELL YOU THAT I SAID I WOULD TAKE HIS
19 WORD FOR THAT?

20 A I -- I DON'T REMEMBER.

21 Q OKAY. AFTER THAT, WAS IT -- IT WAS AFTER THAT
22 PHONE CALL THAT MR. CHIER ARRIVED?

23 A YES, AFTER THAT PHONE CALL.

24 Q CAN YOU RECALL HOW LONG AFTER THAT PHONE CALL,
25 AND BY THIS, GIVE ME YOUR BEST ESTIMATE IN POINT OF TIME,
26 WAS IT, THAT MR. CHIER ARRIVED?

27 A I THINK IT WAS ABOUT HALF AN HOUR BECAUSE, AS
28 I RECALL, MR. CHIER CALLED ME AND SAID THAT HE HAD -- HE

1 WAS A LITTLE LOST AND I HAD TO GIVE HIM DIRECTIONS.

2 Q HE APPEARED TO BE IN HIS CAR WHEN HE CALLED YOU?

3 A YES.

4 Q AND WHEN MR. CHIER ARRIVED, WHERE WERE YOU
5 PHYSICALLY THE FIRST TIME YOU SAW MR. CHIER?

6 A UPSTAIRS.

7 Q OKAY. UPSTAIRS WHERE, MRS. ROBERTS?

8 A LIKE AT THE TOP OF THE STAIRS, THE LANDING, BECAUSE
9 I WAS SO HAPPY THAT HE HAD GOTTEN THERE.

10 Q ALL RIGHT. NOW, DID MR. CHIER THEN APPEAR TO
11 HAVE A CONVERSATION WITH DETECTIVE ZOELLER?

12 A WELL, HE WENT INTO THAT ROOM, AS I RECALL.

13 Q WHICH ROOM, MA'AM?

14 A THE COMPUTER ROOM.

15 Q AND DID HE APPEAR -- DID YOU SEE, IF YOU DID,
16 MR. CHIER TALKING TO MR. ZOELLER?

17 A I -- I -- I DON'T KNOW IF HE TALKED TO MR. ZOELLER.
18 WELL, IT SEEMS TO ME LIKE MR. ZOELLER WAS IN
19 THAT ROOM AND MR. BREILING AND THE OTHER DETECTIVES.

20 Q DID YOU KNOW IF DETECTIVE ZOELLER SPOKE WITH
21 MR. WAPNER ON THE PHONE AFTER MR. CHIER ARRIVED?

22 A YES, I KNOW THAT HE DID BECAUSE I OVERHEARD A
23 CONVERSATION IN THE HALLWAY BETWEEN HE AND MR. BREILING.

24 Q NOW YOU ARE TELLING ME THAT AFTER MR. CHIER
25 ARRIVED, YOU OVERHEARD MR. ZOELLER TALKING TO MR. --

26 A BREILING.

27 Q -- BREILING?

28 A YES.

1 Q IN THE HALLWAY?

2 A YES.

3 Q ABOUT A TELEPHONE CONVERSATION?

4 A YES.

5 Q ALL RIGHT. WHERE SPECIFICALLY WERE YOU WHEN
6 YOU OVERHEARD THIS CONVERSATION?

7 A I WAS IN MY BEDROOM DUSTING. I HAVE LITTLE
8 BATTERSEA BOXES ON MY DESK AND I WAS DUSTING THEM, LIKE I
9 DIDN'T KNOW WHAT ELSE TO DO.

10 Q QUITE SO.

11 WAS THE DOOR OPEN TO YOUR BEDROOM?

12 A YES, WIDE OPEN.

13 Q HOW FAR IN TERMS OF FEET, IF YOU CAN GIVE ME
14 AN ESTIMATE, WAS OFFICER BREILING AND OFFICER ZOELLER STANDING
15 WHEN THEY WERE SPEAKING?

16 A I WOULD SAY ABOUT TEN FEET.

17 Q COULD THEY SEE YOU?

18 A NO.

19 Q WAS IT INADVERTENT THAT YOU WERE STANDING THERE
20 LISTENING TO THEIR CONVERSATION OR WAS IT SOMETHING YOU
21 DELIBERATELY DID?

22 A NO.

23 I WAS IN MY BEDROOM, AS I SAY, AND I WAS -- I
24 THOUGHT, YOU KNOW, I WOULD JUST DUST A BIT BECAUSE MY HOUSE
25 WAS A MESS AND I WAS SO EMBARRASSED.

26 THE COURT: HE MEANS WERE YOU EAVESDROPPING ON THE
27 CONVERSATION?

28 THE WITNESS: NO, NO.

1 THEY JUST TALKED AND I HEARD IT.

2 Q BY MR. BARENS: THANK YOU, YOUR HONOR.

3 IT JUST HAPPENED THAT THEY WERE STANDING THERE
4 TALKING AND YOU WERE STANDING THERE DUSTING?

5 A YES.

6 THEY HAD BEEN IN THIS OTHER BEDROOM AND I HEARD
7 MR. ZOELLER SAY, YOU KNOW, "COME HERE. I HAVE GOT TO TALK
8 TO YOU ABOUT SOMETHING."

9 AND THEY WALKED UP TO THE END OF THE HALL, WHICH
10 THIS LITTLE HALL COMES INTO MY BEDROOM, AND I HEARD HIM SAY
11 TO MR. --

12 Q LET ME MAKE SURE OF MY GEOGRAPHICS FOR A MOMENT
13 HERE.

14 A OKAY.

15 Q THEY WALKED FROM THE BEDROOM OCCUPIED BY MR.
16 HUNT?

17 A THE COMPUTER ROOM.

18 Q DOWN THE HALL TOWARD YOUR BEDROOM?

19 A YES.

20 Q SO THEY WALKED IN A DIRECTION APPROACHING YOUR
21 BEDROOM?

22 A YES. THEY WERE JUST RIGHT -- RIGHT BY MY DOOR.

23 Q MRS. ROBERTS, AS YOU CAN BEST TELL HIS HONOR
24 AND MYSELF WHAT YOU HEARD THE PARTY SAY, IDENTIFYING WHO SAID
25 WHAT, AS BEST YOU CAN.

26 A OKAY. MR. ZOELLER SAID TO MR. BREILING, "LISTEN,
27 I HAVE GOT TO GET OUT OF HERE. I JUST GOT OFF THE PHONE WITH
28 WAPNER AND HE SAID WHAT WE HAVE DONE MAY BE ILLEGAL AND I

1 WASN'T SUPPOSED" --
2 THE COURT: MAY BE ILLEGAL?
3 THE WITNESS: YEAH.

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1 THE COURT: ALL RIGHT.

2 THE WITNESS: AND HE SAID "SO I HAVE GOT TO GET OUT
3 OF HERE BECAUSE I AM NOT SUPPOSED TO HAVE READ ANY OF THOSE
4 PAPERS OR ANYTHING."

5 AND MR. BREILING SAID, "WELL, WILL YOU SEND
6 SOMEONE UP HERE TO REPLACE YOURSELF?"

7 AND HE SAID, "YES, BUT I HAVE GOT TO GET OUT OF
8 HERE."

9 THAT WAS THE CONVERSATION.

10 Q BY MR. BARENS: DID YOU HEAR ANYTHING ELSE SAID
11 IN THAT CONVERSATION?

12 A NO. THAT IS IT.

13 Q HOW LONG DID THAT CONVERSATION TAKE?

14 A JUST A VERY SHORT TIME. THEY JUST SAID WHAT I
15 HEARD AND THAT WAS IT.

16 Q WOULD IT BE A FAIR STATEMENT TO SAY IT WAS LESS
17 THAN A MINUTE?

18 A WELL --

19 Q YOUR BEST ESTIMATE. IF I AM WRONG, PLEASE TELL
20 ME.

21 A WELL, THEY SAID WHAT I SAID. THERE WAS NO
22 STALLING AROUND OR ANYTHING. IT IS JUST THAT MR. ZOELLER
23 SAID THIS AND MR. BREILING ANSWERED HIM, SAID THAT AND THAT
24 WAS IT.

25 MR. BARENS: ALL RIGHT. WELL PERHAPS IT IS AN
26 OPPORTUNE TIME TO RECESS, YOUR HONOR.

27 THE COURT: IS THERE ANYTHING FURTHER THAT YOU HAVE
28 OF HER?

1 MR. BARENS: YES, YOUR HONOR, I DO.

2 THE COURT: YOU MAY FINISH UP, YOU HAVE GOT A COUPLE
3 OF MINUTES.

4 MR. BARENS: IT WOULD TAKE ME MORE THAN A COUPLE OF
5 MINUTES, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 MR. BARENS: AND MR. WAPNER IS GOING TO HAVE HIS
8 OPPORTUNITY. THE WITNESS HAS TO RETURN, IN ANY EVENT, I
9 WOULD ASSUME.

10 THE COURT: ALL RIGHT, WE WILL TAKE AN ADJOURNMENT NOW
11 UNTIL TOMORROW MORNING.

12 MR. BARENS: YOUR HONOR, SURPRISINGLY, I WOULD LIKE
13 TO REQUEST 9 O'CLOCK.

14 THE COURT: 9 O'CLOCK?

15 MR. BARENS: 9 O'CLOCK.

16 THE COURT: THAT IS FINE WITH ME.

17 IS THAT ALL RIGHT WITH YOU, MR. WAPNER?

18 MR. WAPNER: THAT IS ALL RIGHT, YOUR HONOR.

19 COULD WE MAKE IT MAYBE 9:10?

20 THE COURT: 9:15.

21 MR. BARENS: 9:15.

22 MR. WAPNER: I AM GOING TO INTERVIEW A WITNESS PROBABLY
23 BETWEEN 8:00 AND 9:00.

24 THE COURT: WAIT A MINUTE. WE HAVE A CALENDAR TOMORROW.

25 MR. WAPNER: RIGHT.

26 MR. BARENS: YOUR HONOR, I AM SORRY?

27 THE COURT: 9:30. WE HAVE HOW MANY ON CALENDAR?

28 THE CLERK: THIRTEEN MATTERS.

03
1 MR. WAPNER: BETTER MAKE IT 10 O'CLOCK.

2 MR. BARENS: ALL RIGHT.

3 THE COURT: 10 O'CLOCK.

4 MR. BARENS: ALL RIGHT.

5 THE COURT: WE WILL MAKE IT 10 O'CLOCK.

6 MR. BARENS: YOUR HONOR, IN THE BOX THAT I RECEIVED
7 THIS AFTERNOON THERE ARE NO PHOTOGRAPHS.

8 MR. WAPNER: THE BOX WASN'T SUPPOSED TO CONTAIN ANY
9 PHOTOGRAPHS.

10 THE COURT: THEY DIDN'T TAKE THEM.

11 MR. BARENS: THERE WERE ALL OF THESE PHOTOGRAPHS THAT
12 WERE TAKEN UP AT THE HOUSE.

13 MR. WAPNER: WAIT A SECOND. BEFORE WE GET TOO FAR INTO
14 THIS. THIS IS MAYBE A LITTLE PICKY BUT PHOTOGRAPHS THAT WERE
15 TAKEN, DOES THAT MEAN PICTURES THAT WERE TAKEN BY USE OF A
16 CAMERA? DOES THAT MEAN PICTURES THAT WERE ALREADY EXISTING
17 THAT WERE SEIZED BY THE OFFICERS?

18 THE COURT: ARE YOU TALKING ABOUT THE TIME THAT THE
19 OFFICER -- WHAT WAS HIS NAME NOW?

20 MR. BARENS: KUHN AND FOGG.

21 THE COURT: YOU MEAN THE PICTURES THEY TOOK?

22 MR. BARENS: YES. I NEVER RECEIVED THOSE PICTURES
23 ACTUALLY, YOUR HONOR.

24 THE COURT: HE WILL SEE THAT YOU GET THEM.

25 MR. BARENS: OH, THANK YOU. MAY WE HAVE THEM TOMORROW
26 MORNING?

27 MR. WAPNER: NO, THEY CAN'T HAVE THEM TOMORROW MORNING
28 BECAUSE, ACCORDING TO THE OFFICER FROM THE ATTORNEY GENERAL'S

1 OFFICE, MR. BREILING, THEY ARE IN THE PROCESS OF BEING
2 REPRODUCED AND THEY WON'T HAVE THEM, HE TOLD ME --

3 THE COURT: WELL, HAVE THEM EXPEDITE IT AND GIVE COPIES,
4 WILL YOU, TO COUNSEL, PLEASE?

5 MR. WAPNER: I WILL INDEED.

6 SO THERE IS NO MISUNDERSTANDING, THE BOX IS ONLY
7 SUPPOSED TO CONTAIN --

8 THE COURT: WHAT WAS SEIZED.

9 MR. WAPNER: A DUPLICATION OF WHAT WAS SEIZED AND THAT
10 IS WHAT I ASSUME IT DID IN FACT CONTAIN.

11 THE COURT: THEY DIDN'T SEIZE PHOTOGRAPHS.

12 BUT SEE HE GETS COPIES OF THEM, WILL YOU PLEASE?

13 MR. BARENS: ONE MOMENT BEFORE YOU RECESS. YOUR HONOR,
14 WE ARE ABOUT TO GIVE YOUR HONOR COPIES OF THE CASE ANALYSIS
15 PREPARED BY THE DEFENSE CONJUNCTIVELY THAT IS AN ANALYSIS
16 OF THE THREE CASES THAT MR. WAPNER CITED TO YOUR HONOR'S
17 ATTENTION, I THINK IT WAS YESTERDAY OR DAY BEFORE YESTERDAY,
18 TUESDAY MORNING, THE THREE CASES THAT HE CITED ON THE RECORD
19 THAT DAY. I GAVE COPIES IN ORDER TO SAVE ME THE TIME OF
20 READING THEM ALL INTO THE RECORD.

21 THE COURT: HAVE YOU GONE THROUGH THE BOX?

22 MR. BARENS: I HAVE NOT EVEN LOOKED AT IT.

23 THE COURT: I AM GOING THROUGH IT MYSELF.

24 (AT 4:35 P.M. AN ADJOURNMENT WAS TAKEN
25 UNTIL FRIDAY, JANUARY 30, 1987, AT 10 A.M.)
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